

1 BEFORE THE NEW YORK STATE SENATE FINANCE  
AND ASSEMBLY WAYS AND MEANS COMMITTEES

2 -----

3 JOINT LEGISLATIVE HEARING

4 In the Matter of the  
5 2021-2022 EXECUTIVE BUDGET ON  
6 PUBLIC PROTECTION

6 -----

7 Virtual Hearing  
8 Held via Zoom

9 February 10, 2021  
10 9:40 a.m.

10

PRESIDING:

11

12 Senator Liz Krueger  
13 Chair, Senate Finance Committee

13

14 Assemblywoman Helene E. Weinstein  
15 Chair, Assembly Ways & Means Committee

14

PRESENT:

15

16 Senator Thomas F. O'Mara  
17 Senate Finance Committee (RM)

17

18 Assemblyman Edward P. Ra  
19 Assembly Ways & Means Committee (RM)

18

20 Senator Brad Hoylman  
21 Chair, Senate Committee on Judiciary

19

22 Assemblyman Charles D. Lavine  
23 Chair, Assembly Committee on Judiciary

20

21

24 Senator Jamaal T. Bailey  
25 Chair, Senate Committee on Codes

22

26 Assemblyman Jeffrey Dinowitz  
27 Chair, Assembly Committee on Codes

23

24

1 2021-2022 Executive Budget  
Public Protection  
2 2-10-21

3 PRESENT: (Continued)

4 Senator Julia Salazar  
Chair, Senate Committee on Crime Victims,  
5 Crime and Correction

6 Assemblyman David I. Weprin  
Chair, Assembly Committee on Correction

7  
8 Senator John E. Brooks  
Chair, Senate Committee on Veterans,  
Homeland Security and Military Affairs

9  
10 Assemblyman Kenneth P. Zebrowski  
Chair, Assembly Committee on Governmental  
Operations

11  
12 Senator Diane J. Savino  
Chair, Senate Committee on Internet and  
Technology

13  
14 Senator Gustavo Rivera

15  
16 Assemblyman Harry B. Bronson

17  
18 Senator Pete Harckham

19  
20 Assemblyman Edward C. Braunstein

21  
22 Assemblywoman Deborah J. Glick

23  
24 Senator Andrew Gounardes

Assemblyman Erik M. Dilan

Assemblywoman Jenifer Rajkumar

Assemblyman Phil Steck

Assemblywoman Dr. Anna R. Kelles

Senator James Tedisco

1 2021-2022 Executive Budget  
Public Protection  
2 2-10-21

3 PRESENT: (Continued)

4 Senator Anna M. Kaplan

5 Assemblywoman Karen McMahon

6 Assemblyman Demond Meeks

7 Assemblyman Ron Kim

8 Assemblyman Philip A. Palmesano

9 Senator Todd Kaminsky

10 Assemblyman Andy Goodell

11 Assemblywoman Catalina Cruz

12 Assemblyman Mike Lawler

13 Senator Kevin Thomas

14 Assemblyman Michael Tannousis

15 Assemblywoman Patricia Fahy

16 Assemblyman Harvey Epstein

17 Assemblyman Anthony H. Palumbo

18 Senator George M. Borrello

19 Assemblywoman Rebecca Seawright

20 Assemblywoman Latoya Joyner

21 Senator John C. Liu

22 Assemblyman Michael Reilly

23 Assemblywoman Alicia Hyndman

24 Assemblywoman Carmen N. De La Rosa

1 2021-2022 Executive Budget  
Public Protection  
2 2-10-21

3 PRESENT: (Continued)

- 4 Senator Jeremy A. Cooney
- 5 Assemblywoman Marjorie Byrnes
- 6 Assemblyman Angelo J. Morinello
- 7 Assemblywoman Latrice Walker
- 8 Assemblyman Daniel J. O'Donnell
- 9 Assemblyman Chris Burdick
- 10 Assemblyman Mark Walczyk
- 11 Assemblyman Jake Ashby
- 12 Senator Elijah Reichlin-Melnick
- 13 Assemblyman Kevin M. Byrne
- 14 Assemblywoman Linda B. Rosenthal
- 15 Assemblyman Jeffrion L. Aubry

16  
17  
18  
19  
20  
21  
22  
23  
24

1 2021-2022 Executive Budget  
 Public Protection  
 2 2-10-21

3 LIST OF SPEAKERS

4		STATEMENT	QUESTIONS
5	Honorable Lawrence K. Marks Chief Administrative Judge		
6	NYS Office of Court Administration	15	26
7			
8	Robert H. Tembeckjian Administrator and Counsel		
9	New York State Commission on Judicial Conduct	133	140
10	William J. Leahy Director		
11	New York State Office of Indigent Legal Services	159	165
12			
13	Patrick A. Murphy Commissioner		
14	NYS Division of Homeland Security and Emergency Services	180	185
15	Angelo Riddick Interim CIO and Director		
16	NYS Office of Information Technology Services	229	236
17			
18	Michael C. Green Executive Deputy Commissioner		
19	NYS Division of Criminal Justice Services	267	274
20	Anthony J. Annucci Acting Commissioner		
21	NYS Department of Corrections and Community Supervision	355	362
22			
23	Kevin P. Bruen Acting Superintendent		
24	NYS Division of State Police	455	460

1 2021-2022 Executive Budget  
 Public Protection  
 2 2-10-21

3 LIST OF SPEAKERS, Continued

4 STATEMENT QUESTIONS

5	Kristin Brown President and CEO		
6	Empire Justice Center -and-		
7	Laura Abel Senior Policy Counsel		
8	Lawyers Alliance for New York -and-		
9	Molly Clifford Interim Executive Director		
10	NY Legal Services Coalition	504	
11	Dr. David Sandman President and CEO		
12	New York State Health Foundation -and-		
13	Coco Culhane Executive Director		
14	Veteran Advocacy Project -and-		
15	Shane Correia Deputy Director of Strategic		
16	Partnerships Center for Court Innovation		
17	-and-		
18	William C. Silverman Chair		
19	Fund for Modern Courts -and-		
20	Joan Gerhardt Director of Public Policy and Advocacy		
21	New York State Coalition Against Domestic Violence	513	530

22

23

24

1 2021-2022 Executive Budget  
Public Protection  
2 2-10-21

3 LIST OF SPEAKERS, Continued

4 STATEMENT QUESTIONS

5 Manuel M. Vilar  
Vice President & CAO  
6 Police Benevolent Association  
of New York State  
7 -and-  
Timothy M. Dymond  
8 President  
New York State Police Investigators  
9 Association  
-and-  
10 Richard Wells  
President  
11 Police Conference of New York State  
-and-  
12 Michael O'Meara  
President  
13 New York State Association of  
Police Benevolent Associations  
14 -and-  
Thomas H. Mungeer  
15 President  
New York State Troopers Police  
16 Benevolent Association

532 549

17  
18  
19  
20  
21  
22  
23  
24

1 2021-2022 Executive Budget  
 Public Protection  
 2 2-10-21

3 LIST OF SPEAKERS, Continued

4 STATEMENT QUESTIONS

5 J. Anthony Jordan  
 Washington County District Attorney  
 6 -on behalf of-  
 District Attorneys Association  
 7 of the State of New York  
 -and-  
 8 Susan C. Bryant  
 Executive Director  
 9 NYS Defenders Association  
 -and-  
 10 Laurette Mulry  
 President  
 11 Chief Defenders Assn. of NY  
 -and-  
 12 Audrey Sample  
 Founder and Group Lead  
 13 Students Demand Action Rochester  
 -and-  
 14 Regina Ritcey  
 Executive Director  
 15 NYS Dispute Resolution Assn. 568 586

16 Elizabeth Gaynes  
 CEO and President  
 17 The Osborne Association  
 -and-  
 18 Shayna Kessler  
 Senior Planner  
 19 Vera Institute of Justice  
 -and-  
 20 Yonah Zeitz  
 Policy Coordinator  
 21 Katal Center for Equity,  
 Health and Justice  
 22 -and-  
 Barry Graubart  
 23 Deputy Chapter Leader  
 Moms Demand Action for  
 24 Gun Sense in America,  
 New York Chapter 596



1 2021-2022 Executive Budget  
Public Protection  
2 2-10-21

3 LIST OF SPEAKERS, Continued

4 STATEMENT QUESTIONS

5 Sarah Bertozzi  
Managing Attorney and Director  
6 of Immigration Legal Services  
Journey's End Refugee Services

7 -and-

Terry Lawson  
8 Executive Director  
UnLocal

9 -and-

10 Elena Sassower  
Director  
Center for Judicial  
11 Accountability

611

12

13

14

15

16

17

18

19

20

21

22

23

24

1                   CHAIRWOMAN KRUEGER: Good morning.  
2                   I'm Senator Liz Krueger, chair of the Senate  
3                   Finance Committee. And I'm joined today by  
4                   many people but most importantly my cochair  
5                   of today's budget hearing from Ways and  
6                   Means, Assemblywoman Helene Weinstein.

7                   Today is the joint legislative hearing  
8                   for fiscal year 2021-2022 on  
9                   Public Protection, issued within the  
10                  Executive Budget.

11                  It's Wednesday, February 10th, around  
12                  9:40 in the morning. Check back at 9:40  
13                  tonight -- we'll still be here, I'm going to  
14                  tell you, because today will be a very long  
15                  hearing because there are so many different  
16                  overlapping agencies within the rubric of  
17                  public protection.

18                  These hearings are conducted pursuant  
19                  to the New York State Constitution and  
20                  Legislative Law.

21                  Today the Senate Finance Committee and  
22                  Assembly Ways and Means Committee will hear  
23                  testimony concerning the Governor's proposed  
24                  budget for the Judiciary, the State

1 Commission on Judicial Conduct, the Office of  
2 Indigent Legal Services, New York State  
3 Division of Homeland Security & Emergency  
4 Services, New York State Office of  
5 Information Technology, New York State  
6 Division of Criminal Justice Services, the  
7 State Department of Corrections and Community  
8 Supervision, and the State Division of State  
9 Police.

10 Following each testimony there will be  
11 time for questions from the chairs and  
12 rankers and other legislators. Following the  
13 eight representatives from state government,  
14 we will move to testimony from the public who  
15 has asked to testify here today.

16 All testimony is available online and  
17 can be read by each and every legislator and  
18 everyone in the public.

19 If you asked to testify but you were  
20 turned down because it was too crowded, you  
21 are still welcome to submit testimony even  
22 past today's date. And for those of you who  
23 are just listening in and want to read along,  
24 you should have access to quite a bit of the

1 testimony online already.

2 I'm now going to introduce members of  
3 the Senate, and Helene will introduce members  
4 of the Assembly. Following, we'll have  
5 introductions by the Senate --

6 (Zoom interruption.)

7 CHAIRWOMAN KRUEGER: Oh, somebody  
8 please mute yourself if you're not me talking  
9 at the moment.

10 SENATOR O'MARA: Sorry.

11 CHAIRWOMAN KRUEGER: That's okay.  
12 Thank you. That's another rule for these  
13 hearings: Remember to mute yourself if  
14 you're not the one who's supposed to be  
15 actually speaking.

16 We have so many Senators here today,  
17 but Jamaal Bailey, John Brooks, Julia  
18 Salazar, Brad Hoylman. I'm just going  
19 through the -- Gustavo Rivera, Pete Harckham,  
20 Diane Savino, Anna Kaplan, John Liu.

21 Let's pass it to Tom O'Mara, the  
22 ranker, to name his members who are here  
23 today.

24 SENATOR O'MARA: Good morning. Thank

1           you, Senator Krueger.

2                     We are joined on the Minority side by  
3           Senator Jim Tedisco. I'm sure others will be  
4           joining as we progress throughout the day.

5                     CHAIRWOMAN KRUEGER: Thank you.

6                     And now I'll pass it over to  
7           Assemblywoman Helene Weinstein to introduce  
8           Assemblymembers.

9                     CHAIRWOMAN WEINSTEIN: Thank you.

10                    We are joined by Assemblyman Lavine,  
11           chair of our Judiciary Committee; Assemblyman  
12           Dinowitz, chair of our Codes Committee;  
13           Assemblyman Zebrowski, chair of our Gov Ops  
14           Committee. And members of those committees:  
15           Members Braunstein, Bronson, Dilan, Epstein,  
16           Hyndman, Joyner, Kelles, McMahon, Meeks,  
17           Rajkumar, Seawright, Steck. And we probably  
18           will have additional members joining us as  
19           the hearing continues.

20                    Let me turn it over -- let me just  
21           have Assemblyman Ra, the ranker on Ways and  
22           Means, introduce his colleagues.

23                    ASSEMBLYMAN RA: Thank you, Chair.

24                    We are joined this morning by

1 Assemblyman Mike Lawler, the ranker on our  
2 Gov Ops Committee; Assemblyman Morinello,  
3 who's the ranker on our Codes Committee;  
4 Assemblywoman Byrnes; Assemblyman Walczyk;  
5 Assemblymen Goodell, Reilly and Tannousis.

6 SENATOR O'MARA: If I may add, Senator  
7 Krueger, I understand that we're also trying  
8 to be joined by Senator Palumbo. I think  
9 he's in the waiting room awaiting admission.

10 CHAIRWOMAN KRUEGER: Okay. So one of  
11 the moderators please let the Senator in.  
12 They'll figure that out. Thank you, Tom.

13 All right, continuing along, I'm just  
14 going to list out the testifiers for today,  
15 and then we'll just call up each one. Just  
16 know when they start to testify, right before  
17 they start, we'll announce who the chairs of  
18 the relevant committees are for that specific  
19 testifier, because the rules of the road  
20 changed slightly.

21 Our guests have 10 minutes to do their  
22 presentations. Chairs have 10 minutes, if  
23 it's appropriate for the committee, to ask  
24 and get answered their questions. Rankers or

1 chairs of other committees related to this  
2 hearing get five minutes to ask and get  
3 answered their questions. Other members get  
4 three minutes to ask and answer.

5 Only the relevant chair for that  
6 committee gets a second-round possibility, if  
7 they need it, at the end.

8 I'll go over this a few times today.  
9 But so, for exampl

1           thank you.

2                     I'm Lawrence Marks. I'm chief  
3           administrative judge of the Unified Court  
4           System, and I'm pleased to appear this  
5           morning to discuss the Judiciary's budget.

6                     So for the upcoming fiscal year, which  
7           as you know is fiscal year 2022, we are  
8           asking for the same level of appropriations  
9           we received for the current fiscal year.  
10          However, our spending plan has changed from  
11          the one presented to you a year ago.

12                    For fiscal year 2021, spending under  
13          the Judiciary has been reduced by  
14          \$291 million. That's a 10 percent reduction.  
15          In the fiscal year 2022, the Judiciary State  
16          Operating Spending Plan assumes continuation  
17          of this reduced spending level of 2.25  
18          billion.

19                    And I will address this shortly, but  
20          first I'd like to put our budget submission  
21          in its proper context by briefly summarizing  
22          for you the Judiciary's experience over the  
23          past year. And this experience, of course,  
24          could not have been anticipated in February



1           2020 when I last appeared before you to  
2           report on our budget.

3                       Since that time, New York's Judiciary,  
4           along with the rest of the state, has faced  
5           multiple challenges as a result of the  
6           COVID-19 pandemic. These challenges include  
7           the unprecedented task of keeping the courts  
8           operating consistent with a rapidly evolving  
9           understanding of public health needs.

10                      Back in March as the extent of the  
11           pandemic first became apparent and as the  
12           state began instituting aggressive measures  
13           to protect the community, the Judiciary took  
14           the first of several critical steps affecting  
15           court operations. While determined to keep  
16           the courts open for business, we initially  
17           limited our operations to essential and  
18           emergency applications only. Over the next  
19           few weeks, however, we put into effect a  
20           program of virtual court operations to permit  
21           the widest possible delivery of justice  
22           services to litigants and lawyers. This made  
23           it possible and continues to make it possible  
24           for judges and staff to safely conference

1 cases in all of our courts across the state,  
2 to the point where more than 20,000 cases a  
3 week are now conferenced to produce  
4 settlements, referrals to virtual alternative  
5 dispute resolution, and decisions on motions.

6 Virtual court operations now also make  
7 it possible to conduct hundreds of  
8 evidentiary hearings and bench trials each  
9 week.

10 As we took these steps to institute  
11 and expand a virtual court system, we were  
12 also planning for the resumption of in-person  
13 proceedings. Closely adhering to applicable  
14 public health protocols, we instituted a  
15 range of safety measures to protect the  
16 health of all who enter and work in the  
17 courthouses. This permitted us to resume  
18 certain in-person proceedings during the  
19 summer and fall months, including, among  
20 other things, impaneling of grand juries in  
21 all of the state's counties, and some civil  
22 and criminal jury trials.

23 With the resurgence of the virus since  
24 the holiday season, we have had to curtail

1 many of these in-person proceedings, but we  
2 are ready to resume them in the days ahead  
3 once public health authorities make clear  
4 that it is safe to do so.

5           So now, just going back to the budget,  
6 the projected multi-billion-dollar deficit  
7 the state faces as a result of the pandemic  
8 has had a major impact on the Judiciary.  
9 Last spring the Governor, in his revised  
10 financial plan, urged the Judiciary to reduce  
11 its current fiscal year spending by  
12 10 percent. Notably, that amount was then  
13 deducted from the financial plan. As a  
14 result, and as a responsible partner in state  
15 government, we went ahead and reduced our  
16 spending by that amount.

17           A spending reduction of this  
18 magnitude -- a reduction significantly larger  
19 than the reduction we absorbed in 2011 when  
20 the state faced its last budget crisis -- is  
21 an enormously challenging task for the court  
22 system. Our annual budget is overwhelmingly  
23 made up of personnel costs, with roughly 90  
24 percent of the budget going to salaries of

1 judges and nonjudicial staff, along with  
2 health, pension and other fringe benefit  
3 costs.

4 So it follows that any effort to  
5 substantially reduce our spending must entail  
6 reductions in personnel costs.

7 In making these reductions, there were  
8 no easy choices. Like much of state  
9 government, the Judiciary has been living for  
10 years with very-limited-growth budgets.  
11 Although in many respects we are faced with a  
12 need to provide more services than a decade  
13 ago, our annual budgetary allocation has only  
14 marginally increased since then. This has  
15 left us with little budgetary flexibility  
16 when there is a need, as now, to economize.

17 Also complicating our effort has been  
18 the fact that coping with the pandemic and  
19 keeping the courts open as much as possible  
20 for virtual and in in-person proceedings has  
21 necessitated substantial expenditures for  
22 technology, enhanced court cleaning, PPE and  
23 courthouse retrofits. In addition, overtime  
24 costs have increased for our technology and

1 public safety staff.

2 Early on we took a necessary first  
3 step: We instituted a strict hiring freeze.  
4 And so far this fiscal year more than  
5 730 positions that were lost to attrition  
6 remain vacant. While this has cost no one  
7 their job, its impact on court operations  
8 cannot be overstated. Our nonjudicial  
9 workforce is the lifeblood of the court  
10 system. With no end in sight for the hiring  
11 freeze, the Judiciary staffing level now  
12 stands below 15,000 employees across the  
13 state. This is 2,200 fewer employees than we  
14 had 12 years ago, a 13 percent reduction in  
15 our workforce.

16 If the hiring freeze must remain in  
17 effect much longer, we can expect a  
18 diminished staffing level not seen by the  
19 courts in several decades.

20 While the Chief Judge's Excellence  
21 Initiative in recent years has helped the  
22 courts become more efficient than ever  
23 before, our short staffing will make it  
24 increasingly difficult to conduct the

1           Judiciary's work in effective and timely  
2           manner.

3                     Particularly post-pandemic, when  
4           things return to a more normal course of  
5           business, this can have particular  
6           consequences for operations in courts that  
7           primarily serve economically disadvantaged  
8           litigants, including Family Court and Housing  
9           Court.

10                    Among the other hard choices we made  
11           this year was the decision not to certificate  
12           most of the Supreme Court justices who,  
13           having reached 70 and older, were seeking to  
14           remain in judicial service. Obviously this  
15           was a very difficult decision, and toward the  
16           end of 2020 some of you asked that we  
17           reconsider it. In fact, some of the justices  
18           impacted by this decision have sued to have  
19           the decision overturned in the courts.

20                    As difficult as this decision may have  
21           been, we had no choice. By not certificating  
22           these justices, the Judiciary will save  
23           \$55 million over two calendar years. The  
24           grim alternative for us, in order to find

1 comparable savings elsewhere in the budget,  
2 would be to lay off 325 or more nonjudicial  
3 employees -- and again, that's in addition to  
4 the 730-plus positions left open so far  
5 through the hiring freeze. This was simply  
6 unacceptable, both operationally and morally.

7 First, as we learned from our  
8 experience in 2011 when the need for fiscal  
9 austerity required layoffs of several hundred  
10 employees, such a reduction can have a  
11 crippling effect on court operations. And as  
12 I have noted, this effect will be felt most  
13 in courts that primarily serve economically  
14 disadvantaged litigants, who rely heavily on  
15 advice and direction from court staff to be  
16 able to navigate the court process.

17 Second, because of the way civil  
18 service rules apply to layoffs, requiring  
19 layoffs now would fall most heavily on  
20 younger court employees not eligible to  
21 collect their pensions and strand them  
22 without income in what is a very difficult  
23 job market.

24 The remaining austerity steps we've

1 taken include limitations on nonpersonal  
2 service spending. And I won't go through  
3 that; they're listed in my written testimony  
4 that you have.

5 So as we approach the start of the  
6 2022 fiscal year, some have suggested that we  
7 should make more optimistic assumptions that  
8 before long the federal government will  
9 provide financial assistance to New York and  
10 other states, and that assistance will cut  
11 New York's large deficit and enable agencies  
12 of government, including the Judiciary, to  
13 ease up on their austerity measures. We  
14 certainly hope they are right, but we cannot  
15 base our plan on their hopes.

16 For this reason, we've submitted a  
17 flat spending plan that maintains the  
18 reductions implemented this fiscal year.  
19 However, our budget seeks the same level of  
20 appropriations that was approved for the  
21 current fiscal year. So if the state's  
22 fiscal situation does improve in the days  
23 ahead and the Judiciary is able to share in  
24 the benefits of that, we will have the



1 spending authority to meet all or at least  
2 more of our needs. But if that situation  
3 does not improve, we are prepared to continue  
4 operating under the spending reductions we  
5 have imposed during the current year.

6 Our overarching goals will be to keep  
7 all courts open and to avoid layoffs of  
8 nonjudicial personnel. The present hiring  
9 freeze will remain in place, as will the  
10 reductions in various Judiciary programs, but  
11 we will fulfill our constitutional mandate  
12 notwithstanding these cutbacks.

13 And so just if I could conclude, I  
14 want to emphasize that now more than ever, as  
15 the state works to manage an enormous fiscal  
16 deficit while fighting the worst public  
17 health threat in our lifetime, the courts  
18 remain dedicated to ensuring the fair and  
19 prompt administration of justice.

20 The budget we have submitted will, if  
21 approved, enable us to continue our mission  
22 regardless of what's in store for us in the  
23 days ahead. If it turns out that the state's  
24 present fiscal crisis requires that we

1 continue to operate within a reduced spending  
2 level, we can do so under this budget. If  
3 instead the state's fiscal condition  
4 improves, this budget will permit us to  
5 resume more normal operations.

6 Thank you for your attention, and of  
7 course I'm happy to answer any questions.

8 CHAIRWOMAN KRUEGER: Thank you very  
9 much.

10 The first to question will be chair of  
11 the Judiciary Committee in the Senate,  
12 Senator Brad Hoylman.

13 SENATOR HOYLMAN: Thank you, Chair  
14 Krueger and Chair Weinstein. Thank you for  
15 all of your work on these hearings.

16 And it's good to see you, Judge. I  
17 appreciate the difficult circumstances under  
18 which you and your colleagues are operating.

19 And let me just say from the outset  
20 I'm concerned about the fact that a separate,  
21 coequal branch of government is imposing  
22 c TJK  
22 austerity measures --

1           austerity and the meting out of justice go  
2           hand in hand. But that's my editorializing  
3           as I open this hearing.

4                     I wanted to ask you specifically about  
5           what public health guidance you're following  
6           in terms of opening in-person proceedings, as  
7           you mentioned in your testimony. Frankly,  
8           I'm concerned about the health and well-being  
9           of many of our judges. And correct me if I'm  
10          wrong, most of those judges are not getting  
11          vaccinated unless they're eligible otherwise.

12                    CHIEF ADMIN. JUDGE MARKS: That's  
13          correct. Judges are not among the categories  
14          of groups eligible for testing under the  
15          phases that have been implemented so far.  
16          And we've strongly urged the executive branch  
17          to include judges and render them eligible  
18          for the vaccine, because that's critically  
19          important to eventually resuming to more  
20          normal operations.

21                    SENATOR HOYLMAN: Thank you. And as  
22          you mentioned, your budget request keeps the  
23          All Funds operations appropriations flat at  
24          2.4, 2.5 billion. And as you note, last year

1           you cut your budget by 300 million.  If we  
2           approve your budget as requested this year,  
3           so you're going to cut your budget again?  Is  
4           that what I'm hearing?

5                    CHIEF ADMIN. JUDGE MARKS:  No, we will  
6           maintain the 10 percent reduction that we  
7           experienced this fiscal year.

8                    So it's -- what we're seeking -- I  
9           mean, obviously, like everything, this is a  
10          little more complicated this year.  We're  
11          seeking the same amount of cash as we have in  
12          the current fiscal year, factoring in the  
13          10 percent reduction this fiscal year, but  
14          our appropriation level is significantly  
15          higher.  It's what was approved by the  
16          Legislature last year.  It represents a  
17          2 percent increase over the year before that.

18                   And the reason why we want to maintain  
19          that higher appropriation level is that if  
20          there is federal aid forthcoming and New York  
21          receives federal aid and the Judiciary  
22          benefits from that, we will be able to  
23          receive and spend more money up to that  
24          higher appropriation level.

1           SENATOR HOYLMAN: So what does that  
2 mean for civil legal services? You know,  
3 obviously a very important function to make  
4 certain that the most underserved have legal  
5 representation, particularly during these  
6 difficult times.

7           Can you commit, Judge, to keeping that  
8 100 million in funding for civil legal  
9 services intact and not cutting it moving  
10 forward?

11           CHIEF ADMIN. JUDGE MARKS: Well, what  
12 we did, as part of the 10 percent  
13 reduction -- the 100 million is in two parts.  
14 Fifteen million of that is a pass-through in  
15 our budget that we suballocate to the IOLA  
16 fund, which uses that money in awarding  
17 grants to legal services organizations.

18           That was untouched, and that  
19 15 million has been passed through this  
20 fiscal year to IOLA. And that will -- if our  
21 budget is approved, that will continue in the  
22 upcoming fiscal year.

23           What we did reduce by 10 percent was  
24 the remaining \$85 million, which is money

1           that we award in grants to approximately  
2           80 civil legal services organizations. We  
3           did, in this 10 percent cut, reduce that  
4           85 million by 10 percent, by \$8.5 million.

5                     And because we're seeking a flat  
6           budget, we've put in for a flat budget for  
7           the upcoming fiscal year, that lower level of  
8           money in grants for civil legal services  
9           organizations would continue, it would be  
10          \$8.5 million left in the upcoming fiscal  
11          year, unless we get more money in our budget.

12                    SENATOR HOYLMAN: Well, Judge, I don't  
13          have to tell you, as a representative -- and  
14          I bet everyone who's on this Zoom would  
15          agree -- we want you to spend the  
16          100 million. We want our constituents  
17          represented in court. I would urge you to  
18          spend that, Judge. It's just so crucial,  
19          particularly given the complicated legal  
20          factors now at play for so many folks who are  
21          seeking legal representation.

22                    How about the -- OCA's contract with  
23          Housing Court Answers? Are we looking at a  
24          23 percent reduction there, as I understand

1           it?

2                   CHIEF ADMIN. JUDGE MARKS: That's news  
3           to me. I can check that. But Housing Court  
4           Answers is one of the 80 or so organizations  
5           that receive grants out of the 85 million.  
6           They would have -- I'll have to check this,  
7           and I will get back to you on this. But they  
8           should not have been reduced more than the 10  
9           percent reduction that was imposed across the  
10          board.

11                   But I will check that.

12                   SENATOR HOYLMAN: And -- thank you.  
13          We'll follow up with you on that.

14                   And obviously an issue that rankles a  
15          lot of the members of the judiciary is the --  
16          is one you touched on, the certification of  
17          judges. Because, you know, we believe -- I  
18          think, again, many of my colleagues agree --  
19          that this is penny-wise, pound-foolish to  
20          decertify these 46 judges that had reached  
21          the constitutional retirement age of 70.

22                   Just -- I wanted to point out  
23          something, Judge. Article 6 of the  
24          Constitution and the statute governing the

1 certification process requires that the  
2 services of judges be "necessary to expedite  
3 the business of the court" and that "he or  
4 she is mentally and physically able and  
5 competent to perform the duties of the  
6 office."

7 Is it your contention that these  
8 46 judges have failed to satisfy this  
9 two-prong test?

10 CHIEF ADMIN. JUDGE MARKS: That is our  
11 position.

12 And that's based on the much broader  
13 interpretation of the language in the  
14 Constitution that courts have applied in how  
15 they've interpreted that language over the  
16 years, including Court of Appeals decisions,  
17 including a relatively recent Court of  
18 Appeals decision in 2017. That that language  
19 has always been interpreted far more broadly  
20 than how it literally reads, and with very  
21 good reason. And I could go into that if we  
22 have the time.

23 But so -- and as I mentioned in my  
24 opening remarks, this issue is now in



1           litigation. In fact, the case was argued  
2           before the appellate division just yesterday  
3           morning. So I don't want to get into too  
4           much of a discussion about it because I'm a

1           you're saying can we settle the case if there  
2           was money forthcoming. That's something that  
3           could be discussed, but I'd rather not do  
4           that in this venue.

5                     SENATOR HOYLMAN: And may I ask,  
6           Judge, how is the refusal to certificate  
7           these judges going to impact the nonjudicial  
8           employees that work with and for those  
9           judges?

10                    CHIEF ADMIN. JUDGE MARKS: You mean  
11           their personal staff?

12                    SENATOR HOYLMAN: Yes.

13                    CHIEF ADMIN. JUDGE MARKS: We -- we --  
14           this is unfortunately not widely understood  
15           and known, but that was about 90 or so  
16           personal appointees of these judges who  
17           weren't certificated. For those who wanted  
18           to continue employment in the court system,  
19           we have placed all of them with other judges  
20           and a few in other positions in the court  
21           system.

22                    So they've been saved, those who have  
23           asked to continue. Some retired themselves,  
24           voluntarily, but those who wanted to stay on

1 we've placed with other judges in other  
2 positions in the court system, fortunately.

3 SENATOR HOYLMAN: Thank you. And my  
4 time is up, Chair.

5 CHAIRWOMAN KRUEGER: Thank you very  
6 much, Chair.

7 SENATOR HOYLMAN: Thank you, Judge.

8 CHIEF ADMIN. JUDGE MARKS: Thank you.

9 CHAIRWOMAN KRUEGER: Assemblywoman.

10 CHAIRWOMAN WEINSTEIN: Before we go to  
11 our chair of Judiciary, we've been joined by  
12 Corrections Chair Assemblyman Weprin,  
13 Assemblywoman De La Rosa, Assemblywoman  
14 Glick, Assemblywoman Cruz, Assemblywoman Fahy  
15 and Assemblyman Burdick.

16 So now we go to Charles Lavine, the  
17 chair of our Judiciary Committee, for  
18 10 minutes.

19 CHAIRWOMAN KRUEGER: And just a  
20 reminder, as Chuck is starting to talk --  
21 sorry -- if you want to be on the questioning  
22 list, you have to raise your hand, which is  
23 at the bottom of your screen in the center.  
24 Thank you.

1                   Sorry, Assemblymember Lavine.

2                   ASSEMBLYMAN LAVINE: I accept your  
3 apology, and thank you, Chair Krueger. And  
4 thank you, Chair Weinstein.

5                   It certainly seems to me that at a  
6 time of savage and unprecedented attacks on  
7 our institutions of government, today's  
8 hearing takes on unprecedented significance.

9                   In his classic book On Tyranny,  
10 Professor Timothy Snyder teaches us that in  
11 times of great civil crisis our institutions  
12 of government, such as our courts, cannot  
13 protect us, the citizens, unless we protect  
14 them as well.

15                   So with that in mind, good morning,  
16 Your Honor. It's always a pleasure to see  
17 you. And please convey my gratitude to our  
18 judges, our administrative staff, and  
19 everyone who works in our courthouses.  
20 Including court officers, court reporters,  
21 and those who have the challenging task of  
22 cleansing and sanitizing our courthouses as  
23 well.

24                   So on this subject of the

1 non-certificated judges, we anticipate --  
2 meaning the courts anticipate -- that there  
3 will be approximately 55 million in  
4 savings -- over the course of this year and  
5 next year?

6 CHIEF ADMIN. JUDGE MARKS: Well, it's  
7 over the course of this calendar year and the  
8 next calendar year, because the terms of  
9 certificated judges are not coterminous with  
10 our fiscal year.

11 So the savings would be in the last  
12 three months of this fiscal year, the full 12  
13 months of the upcoming fiscal year, and nine  
14 months of the fiscal year after that.

15 ASSEMBLYMAN LAVINE: So does that  
16 amount of money, that 55 million,  
17 approximately, does that also include judges  
18 who this year will reach the age of 70 and  
19 may request to be recertificated or  
20 certificated, whatever the word is? And does  
21 it also include the judges who had been given  
22 certificates to continue past 70 whose  
23 two-year term will expire this year?

24 CHIEF ADMIN. JUDGE MARKS: No, the 55

1 million pertains only to the 46 judges who  
2 were not certificated to start the beginning  
3 of this calendar year, January 1, 2021.

4 The judges who are currently  
5 certificated and those whose certification --  
6 you know, you're right, it's difficult to  
7 pronounce. Those who would be up for  
8 recertification, recertification at the end  
9 of this calendar year are not impacted by the  
10 decision that was made this fall.

11 And hopefully later this year the  
12 administrative board of the courts will be  
13 able to certificate and recertificate all or  
14 most of those judges.

15 ASSEMBLYMAN LAVINE: So there's a  
16 movement to make permanent virtual or remote  
17 arraignments in our criminal courts.

18 Do you have any particular view on  
19 whether that would be beneficial or  
20 detrimental to the concerns of due process?

21 CHIEF ADMIN. JUDGE MARKS: Well, you  
22 know, we've been -- out of necessity --  
23 forced to convert to virtual proceedings  
24 throughout the court system, including for

1 criminal arraignments. The -- it's been  
2 successful. It was obviously done for health  
3 and safety reasons, and a lot of this  
4 experiment, if you will, with virtual court  
5 proceedings I believe will continue  
6 post-pandemic, post-vaccination.

7 But whether that makes sense for  
8 arraignments is something we would have to  
9 look at. We'd be interested in the views of  
10 our judges, how they feel about that. We'd  
11 be interested in the views of the district  
12 attorneys, we would be interested in the  
13 views, of course, of the criminal defense  
14 bar, we'd be interested in the Legislature's  
15 view on that. That's something we'd have to  
16 look at.

17 It has been very successful. Tens of  
18 thousands of arraignments -- everyone who's  
19 been arrested in this state has been  
20 arraigned, the vast percentage of which have  
21 received arraignments within 24 hours. It's  
22 been all virtual since the last week in  
23 March. So it's been successful.

24 Whether it makes sense to continue

1           that is something we would have to look at at  
2           the appropriate time.

3                   ASSEMBLYMAN LAVINE:  So as an old  
4           public defender from many years ago, I might  
5           simply add that something is really missing  
6           in terms of due process and in terms of  
7           interaction, basic interaction with those who  
8           are charged with crimes where there is this  
9           lack of personal immediacy between defense  
10          counsel, even prosecutors and those accused,  
11          and the judges and those accused as well.

12                   But that's my two cents, as someone  
13          who's been --

14                   CHIEF ADMIN. JUDGE MARKS:  I think  
15          that's --

16                   ASSEMBLYMAN LAVINE:  -- defense  
17          counsel in the past.

18                   CHIEF ADMIN. JUDGE MARKS:  Interested  
19          in hearing about, you know --

20                   ASSEMBLYMAN LAVINE:  Thank you.

21                   So we're going to end up with  
22          substantial case backlogs in our courts as we  
23          come to terms with how to best protect  
24          ourselves in the COVID crisis.  Do you think



1           that there are going to be changes in law  
2           that will be required in order to help  
3           address those backlogs?

4                        CHIEF ADMIN. JUDGE MARKS:

5           Absolutely. You know, one of the things we  
6           need to do to address backlogs -- I mean,  
7           there's a series of things that we're going  
8           to need to do, and we are doing, which  
9           follows up on the Chief Judge's Excellence  
10          Initiative, which was four years in the  
11          making a year ago when we began to experience  
12          the pandemic -- and was a very successful  
13          initiative, dramatically successful in some  
14          courts, in reducing delays and reducing  
15          backlogs and resolving older cases.

16                      So we know how to do this. And it's  
17          by looking at the data and sharing the data  
18          and focusing on older cases. And  
19          importantly -- and this has happened to some  
20          extent during the pandemic -- being able to  
21          move resources around, judges and staff, to  
22          address backlogs in the most efficient way.

23                      So to answer your question, yeah, I  
24          think that the most helpful and important

1           thing that the Legislature could do was to  
2           revisit the chief judge's proposal that was  
3           made last year to consolidate the trial  
4           courts.

5                     I don't want to go into a long  
6           discussion about this today, but as you know,  
7           we have 11 separate and distinct trial courts  
8           in the state. It's far more than any other  
9           state in the country. It's a complicated,  
10          redundant, byzantine process. It makes it  
11          much more difficult to administer the courts.

12                    So if there was one thing in  
13          particular that the Legislature should do, in  
14          our opinion it would be to revisit that  
15          proposal and pass it -- or at least, since  
16          it's a constitutional amendment, see to first  
17          passage of our proposal this legislative  
18          year.

19                    ASSEMBLYMAN LAVINE: Thank you, Judge.

20                    Finally, the events of January 6th are  
21          fresh on our minds and will forever be seared  
22          on the mind and the heart of our nation.  
23          We've never seen anything like this before.  
24          Our courthouses represent our government.

1 Throughout the entire State of New York -- I  
2 don't even know how many courthouses we have.  
3 I bet we have more than a hundred courthouses  
4 --

5 CHIEF ADMIN. JUDGE MARKS: Over 300.

6 ASSEMBLYMAN LAVINE: Over 300. See, I  
7 wasn't even close. Close enough for  
8 government work, as they say, but not close  
9 enough.

10 What steps are anticipated to be taken  
11 in order to provide protection to those  
12 representatives -- those courthouses which  
13 are so representative of our governmental  
14 authority?

15 CHIEF ADMIN. JUDGE MARKS: It's an  
16 excellent question. And in fact we did take  
17 steps last month and, you know, we continue  
18 to be on alert for the problem that you  
19 raise.

20 Our public safety command, our  
21 leadership of our court officer command, are  
22 in regular contact with law enforcement, FBI  
23 and other law enforcement, State Police, with  
24 regard to credible threats, you know, to

1 government buildings in the state, including  
2 courthouses. So we -- and I don't want to  
3 get into too much detail about what we do if  
4 there is a credible threat, but we have  
5 measures in place and provide additional  
6 resources where that's necessary when we  
7 learn of a credible threat or a possible  
8 credible threat.

9 So it's something we're very mindful  
10 of. It's a very real issue, as you point  
11 out. And we do have protocols in place to  
12 protect the courthouses, you know, if and  
13 whenever that's necessary.

14 ASSEMBLYMAN LAVINE: Thank you so very  
15 much, Your Honor.

16 CHIEF ADMIN. JUDGE MARKS: Thank you.

17 ASSEMBLYMAN LAVINE: I yield my seven  
18 seconds.

19 CHAIRWOMAN KRUEGER: Thank you.

20 Assembly, I'm going to pass it back to  
21 the Senate, if it's all right with you.

22 And our next speaker is our chair of  
23 Codes, Jamaal Bailey, for five minutes.

24 SENATOR BAILEY: Thank you. Five

1 minutes and seven seconds, as time was  
2 yielded by Chair Lavine.

3 Good morning, Madam Chair, good  
4 morning, Madam Chair Weinstein. Liz, I'm  
5 very sad that we won't have budget pizza  
6 today.

7 Judge Marks, good to see you.

8 I'm going to jump right into it. This  
9 is my fifth budget hearing, and in each of  
10 the times we've had a conversation at the  
11 budget we've spoken about diversity, not just  
12 within the ranks of OCA via the LEO Program,  
13 which is great, but also diversifying the  
14 bench.

15 And one of the things that Senator  
16 Hoylman wasn't able to touch on was the  
17 effect that it had on diversity within the  
18 ranks of the bench in the Borough of the  
19 Bronx and also Queens. Many of the judges  
20 that we are losing as a result of OCA's plan,  
21 the decertification plan, are people of  
22 color. And as individuals of color are  
23 disproportionately affected by the justice  
24 system, we are disproportionately not

1 represented within the ranks of the  
2 judiciary.

3 I'm asking, were bar associations such  
4 as the MBBA, Dominican Bar Association, PRBA  
5 or community organizations, were they -- did  
6 you have conversations with them when this  
7 was taking place?

8 CHIEF ADMIN. JUDGE MARKS: No,  
9 frankly, we didn't. It was a strict  
10 budgetary decision. We felt it was a  
11 necessary and unavoidable and difficult  
12 budgetary decision. And it was not discussed  
13 with bar associations or other groups.

14 I could say fortunately -- look,  
15 you're absolutely right, and we've talked  
16 about this in the past. The judiciary can  
17 be -- should be more diverse, has to be more  
18 diverse. It has become more diverse over  
19 time, but a lot of work left to do on that.  
20 But I would say fortunately, of the 46 judges  
21 who were not certificated, there were only  
22 six judges of color. So -- and again, I'm  
23 not minimizing that; that's six judges of  
24 color fewer than we have now than we did in

1 December. But fortunately it was not a  
2 larger number than that or a larger  
3 percentage.

4 And I think if -- and these judges by  
5 definition are all 70 or older. But if for  
6 some reason a younger group or bloc of judges  
7 left the court system, it would be far more  
8 likely that proportionally that younger bloc  
9 of judges would be more diverse and would  
10 include more judges of color than this group  
11 of 46 judges.

12 But again, I don't want to disagree  
13 with you or argue with you on that point,  
14 because losing six judges of color is losing  
15 six judges of color. It's not a good  
16 situation.

17 SENATOR BAILEY: And I would say those  
18 six of 46, yes, in the aggregate that may not  
19 be as much of a percentage. But again, if  
20 you hyper-local focus on the Bronx, we have a  
21 much larger percentage of judges of color  
22 that we've lost within a borough that has a  
23 majority minority population. So I would ask  
24 that we keep these things in mind, always

1 based upon context.

2 The next question I have is related to  
3 pretrials. Under the pretrial reforms that  
4 we've -- that we were able to pass, the great  
5 pretrial reforms that we were able to pass,  
6 there are some reports that are due in of  
7 November of '21 and January of '22. Are you  
8 having data collection issues with those, or  
9 do you anticipate that they would be  
10 completed on time?

11 CHIEF ADMIN. JUDGE MARKS: Yeah, I  
12 believe the first one is due early July of  
13 this year. And we're hard at work on that.  
14 We're working hand in hand with the Division  
15 of Criminal Justice Services, and I know you  
16 have the DCJS commissioner, Mike Green,  
17 testifying a little later this morning.

18 So we are hard at work on that, have  
19 been for months, and expect to meet the  
20 statutory deadlines.

21 SENATOR BAILEY: Okay. So again, with  
22 the -- and again, funding, right, funding  
23 issues as related to the discovery reform  
24 that the Governor has put in the budget, has



1 OCA taken a position on the amount of money?  
2 Is it sufficient, should there be less,  
3 should there be more?

4 CHIEF ADMIN. JUDGE MARKS: I think  
5 you're talking about funding for prosecutor  
6 offices?

7 SENATOR BAILEY: The discovery reform,  
8 yes.

9 CHIEF ADMIN. JUDGE MARKS: Yeah. We  
10 haven't taken a formal position on that. But  
11 I can tell you from my own understanding of  
12 this, and background and experience, that the  
13 new legislation does impose substantial  
14 additional burdens on district attorneys. So  
15 if they're asking for additional funding, I  
16 would offer that that's something that the  
17 Legislature should look at seriously.

18 SENATOR BAILEY: Okay. I would add my  
19 voice to the chorus of Chairman Lavine about  
20 the in-person appearances being critical to,  
21 I think, the -- to the integrity of our  
22 justice system, as related to the Article VII  
23 proposal.

24 And if there's time for a second

1 round, I will come back. But I yield my  
2 seven seconds, Madam Chair. Thank you.

3 Thank you, Judge.

4 CHIEF ADMIN. JUDGE MARKS: Thank you.

5 CHAIRWOMAN WEINSTEIN: So we now go to  
6 Assemblyman Dinowitz for five minutes.

7 ASSEMBLYMAN DINOWITZ: Good morning.

8 Five minutes and seven seconds.

9 Good morning, Judge Marks. It's good  
10 to see you.

11 CHIEF ADMIN. JUDGE MARKS: Good  
12 morning.

13 ASSEMBLYMAN DINOWITZ: I'm glad you're  
14 here today. I think it's regrettable that  
15 it's under these circumstances with the  
16 horrible budget that you have to deal with.

17 I wish -- I wish OCA had participated  
18 in the hearing that the Assembly had a few  
19 months ago on the budget, because one of the  
20 things I think is important is that when a  
21 decision is made, it should at least bring in  
22 some of the stakeholders, the Legislature --  
23 because, after all, the Legislature has the  
24 authority to review, modify and approve

1 budgets. But not only the Legislature, but  
2 other stakeholders -- bar associations, the  
3 New York State Trial Lawyer, defenders  
4 associations, civil legal services -- all the  
5 stakeholders that are really impacted by  
6 these very crucial decisions.

7 So I would hope that on important  
8 decisions like that, in the future, that  
9 those things would be taken into account.

10 And I just wanted to say that the  
11 46 judges, eight of them are from the Bronx.  
12 We comprise, in the Bronx, 7 percent of the  
13 state's population, yet 17 percent of the  
14 judges that are being eliminated were working  
15 in the Bronx -- the borough, the county that  
16 is probably in the greatest need of every  
17 county in the state.

18 And of the minority judges that you've  
19 referred to, people of color, of the six  
20 judges, three of them are from the Bronx, 50  
21 percent. That's also a big problem, I think.

22 And the Borough of Queens, I think  
23 they lost six judges. That's a very high  
24 number. And the impact of this decision is

1 not evenly distributed throughout the state,  
2 but in fact certain areas -- and I will say,  
3 again, particularly the Bronx is most heavily  
4 impacted {audio out} -- civil court judges,  
5 criminal court judges to become acting  
6 supremes, but that means that you're emptying  
7 out the civil court and the criminal court,  
8 which I think is another problem that you're  
9 going to face.

10 But let me ask you this question. The  
11 cost of -- that you're going to save by  
12 eliminating a judge -- a judge makes a  
13 salary, but that judge will then start  
14 collecting pensions at a much earlier stage.  
15 And the cost of the pension is very  
16 significant. Now, I realize the pensions  
17 don't come out of OCA's money, but it comes  
18 out of the taxpayers' money one way or the  
19 other at some point or another.

20 So given the fact that you're not  
21 really saving money by -- or at least not a  
22 significant amount of money by firing these  
23 judges, how do you really justify that?

24 CHIEF ADMIN. JUDGE MARKS: Well, it's

1 true that the -- if you look at it from an  
2 overall state perspective, I believe there's  
3 still a savings for the state as a whole, but  
4 not the full 55 million.

5 But the fact of the matter is, I mean,  
6 our responsibility is to balance our budget  
7 and operate within the money that's allocated  
8 to us. And there's no question that there's  
9 a \$55 million savings to the Judiciary, which  
10 of course is our primary concern.

11 Assemblyman Dinowitz, could I just  
12 respond very quickly to the -- what you said  
13 about the Bronx and losing those judges?  
14 It's seven judges. Two were in the Criminal  
15 Term, five were in the Civil Term Supreme  
16 Court. We through reassignments -- we  
17 haven't waited. And we haven't even done  
18 this by taking judges out of, as you said,  
19 robbing the lower court, the lower criminal,  
20 lower civil courts.

21 We've taken judges -- Supreme Court  
22 justices and two Court of Claims judges who  
23 were appointed by the Governor last summer,  
24 and the five judges that the Civil Term lost

1 in Bronx Supreme Court -- because we are very  
2 concerned about that, as you are, and please  
3 believe me when I say that, because Bronx is  
4 a court that's struggled with backlogs  
5 historically over the years.

6 We have held the Civil Term of Bronx  
7 Supreme Court harmless with respect to the  
8 five judges in the Civil Term who were not  
9 certificated by moving five other judges into  
10 Supreme Court. And the administrative judge  
11 of that court is very pleased that we were  
12 able to do that, and is not complaining about  
13 judicial resources -- at least for now.

14 ASSEMBLYMAN DINOWITZ: Oh, I'm sure  
15 the complaints will be coming in the near  
16 future.

17 But, you know, I understand what you  
18 said about you're worried about the Judiciary  
19 Budget, and rightly so. But we as  
20 legislators have to look at the whole  
21 picture, and the whole picture is that  
22 ultimately the taxpayers really are not  
23 saving much money at all, but yet we're  
24 concerned about how that's going to affect

1           how justice is dispensed in every county in  
2           the state.

3                     And my time is up.

4                     CHAIRWOMAN KRUEGER: Thank you.

5                     CHAIRWOMAN WEINSTEIN: So we go to the  
6           Senate now.

7                     CHAIRWOMAN KRUEGER: Thank you very  
8           much.

9                     We're next going to Senator Tom  
10          O'Mara.

11                    SENATOR O'MARA: Thank you, Chairwoman  
12          Krueger.

13                    Good morning, Chief Judge. Thank you  
14          for being with us today.

15                    I want to first thank  
16          Assemblyman Lavine for his opening quote  
17          regarding tyranny, and the protection of our  
18          government organizations. And that's  
19          certainly never been made clearer than the  
20          61-day siege of our federal courthouse in  
21          Portland and the several-week siege of a  
22          police precinct in Seattle.

23                    What is the court system doing,  
24          Your Honor, to prevent something like that

1           happening here in New York State?

2                   CHIEF ADMIN. JUDGE MARKS: That's an  
3           interesting question. It's not one that's  
4           occurred to me, whether the judiciary has a  
5           role in protecting attacks and assaults on  
6           other governmental buildings. I mean, other  
7           than if that occurs and people are arrested  
8           and they're charged with crimes, the  
9           judiciary will adjudicate those cases.

10                   But other than that --

11                   SENATOR O'MARA: I guess I'm talking  
12           in particular, what efforts are being made to  
13           protect courthouses in particular, since it  
14           was a federal courthouse in Portland that was  
15           under siege for 61 days.

16                   CHIEF ADMIN. JUDGE MARKS: Yeah, as I  
17           noted before, we have protocols in place to  
18           deal with credible threats to our more than  
19           300 courthouses throughout the state. And  
20           we've instituted those protocols at different  
21           times when there has been a credible threat.  
22           And we are confident that we would be able to  
23           protect our courthouses if they were under  
24           assault. In anything remotely like what



1           happened in Washington, we would be able to  
2           protect -- we would be ready for that in the  
3           courthouses.

4           SENATOR O'MARA: Thank you. I hope we  
5           are, because we certainly do not want to see  
6           that here -- anywhere, but especially here in  
7           New York State.

8           Moving on to virtual appearances, I'm  
9           drawing a blank on the section of law right  
10          now, but we've been working on it in our  
11          judicial district on virtual criminal court  
12          appearances. Some counties in the state  
13          are -- had the ability to do virtual  
14          appearances even before this pandemic, I  
15          believe. Now others are allowed to do them  
16          while this pandemic is continuing.

17          What are your thoughts on expanding  
18          that type of virtual appearance activity to  
19          these other counties that haven't been able  
20          to do it before? Because I think, from what  
21          I've been seeing, it has been very  
22          successful, certainly in criminal cases with  
23          the transporting of inmates back and forth.  
24          And these appearances aren't for the purposes

1 of sentencing or live testimony of witnesses  
2 at hearings and things, but for the more  
3 run-of-the-mill control dates and things.

4 What's your thoughts on expanding that  
5 to these other counties that won't be able to  
6 continue that when the pandemic ends?

7 CHIEF ADMIN. JUDGE MARKS: Yeah, I  
8 think under one of the Governor's executive  
9 orders it's permitted across the state, video  
10 court appearances and routine proceedings in  
11 criminal cases.

12 I agree, it has been very successful  
13 across the state. We would be supportive  
14 that -- the provision in the Criminal  
15 Procedure Law, I believe it's Article 182,  
16 allows for this in a limited number of  
17 counties. As I said, the Governor's  
18 executive order allows it -- you know, for  
19 now, at least -- across the state. So we  
20 would be fully supportive of legislation that  
21 would expand the current provision in the  
22 Criminal Procedure Law to all 62 counties of  
23 the state.

24 SENATOR O'MARA: Great. Thank you

1 very much.

2 Can you just briefly, in the minute  
3 that's left here -- you've talked a little  
4 bit about backlog, and we certainly have had  
5 backlog in our court systems at both civil  
6 and criminal levels for some time.

7 How has the pandemic to this point  
8 exacerbated that backlog? And when this  
9 pandemic ends and we get back to fully  
10 functioning courtrooms, how long is it going  
11 to take us to dig out?

12 CHIEF ADMIN. JUDGE MARKS: Backlogs  
13 have grown, not necessarily across the board.  
14 In fact, in Supreme Court, civil cases in  
15 Supreme Court, the backlog interestingly has  
16 not skyrocketed. It's been fairly modest.  
17 And I think that's because virtual  
18 proceedings have worked so well in Supreme  
19 Court where, in the overwhelming number of  
20 cases, the litigants are represented by  
21 counsel. So when that's the case, as  
22 compared to courts that handle a large  
23 proportion of their cases are -- involve  
24 self-represented litigants, who are not

1 always as able to navigate the technology to  
2 participate virtually.

3 So -- but we do have backlogs that  
4 have grown. Look, the court system has  
5 always had backlogs. That's been the key  
6 focus of Judge DiFiore in her tenure as chief  
7 judge, is to attack backlogs and make the  
8 courts more efficient and eliminate delays.  
9 We have made tremendous success in that, as I  
10 noted before, but we're really going to have  
11 to redouble our efforts post-pandemic and,  
12 you know, focus intensively on the older  
13 cases, collect a lot of data -- because a lot  
14 of this is data-driven -- and share that data  
15 with our administrative judges and our  
16 rank-and-file judges.

17 In high-volume counties, assign  
18 dedicated judges just to focus on trying to  
19 resolve the older cases; make greater use of  
20 alternative dispute resolution; and be more  
21 creative and flexible in how we move and  
22 assign our judicial and nonjudicial  
23 resources -- among other steps we're going to  
24 have to take to address what are going to be

1 very substantial backlogs.

2 CHAIRWOMAN KRUEGER: Thank you.

3 SENATOR O'MARA: Thank you,

4 Your Honor.

5 CHAIRWOMAN KRUEGER: Thank you, Tom.

6 I'm passing it back to the Assembly.

7 CHAIRWOMAN WEINSTEIN: We go now for

8 three minutes to Assemblywoman Rajkumar.

9 ASSEMBLYWOMAN RAJKUMAR: Thank you,

10 Chairman Weinstein. Thank you to our

11 Assembly Judiciary chair, Chuck Lavine.

12 And thank you, Chief Judge Marks, for  
13 your time and your testimony today and for  
14 your efforts to maintain the integrity of our  
15 justice system during the very many  
16 challenges presented by this pandemic.

17 I have three quick questions for you  
18 this morning, and my first question is about  
19 the discovery reform. How is the discovery  
20 reform that we enacted last year working out  
21 now in the New York State courts? I know  
22 that prosecutors must disclose their evidence  
23 earlier and that discovery is more enhanced.  
24 How are the district attorneys adjusting?

1 CHIEF ADMIN. JUDGE MARKS: Well -- I'm  
2 sorry.

3 ASSEMBLYWOMAN RAJKUMAR: Yeah, I  
4 thought -- let me just get my three questions  
5 out and then I look forward to your answers.

6 So I just wanted to know how it's  
7 playing out in our courts.

8 And my second question will be no  
9 surprise; I want to ask how the Office of  
10 Court Administration is managing layoffs  
11 generally during the pandemic.

12 And I know, as was mentioned here  
13 several times, OCA was forced to lay off at  
14 least 325 court employees, 92 non-judicial  
15 chamber staff, and then of course compelled  
16 those 49 judges to retire. So can you just  
17 speak in more detail about how you're  
18 managing the layoffs generally, giving us  
19 insight into your strategy and thinking as a  
20 manager as you run OCA.

21 And then, relatedly, given that we do  
22 not have enough court personnel, can you talk  
23 about the steps that OCA is taking to deal  
24 with the backlogs in the courts and the

1 overworked staff? Thank you.

2 CHIEF ADMIN. JUDGE MARKS: Okay. Just  
3 quickly on discovery, the Governor's  
4 executive order stayed or suspended the --  
5 you know, the swifter timetables that were  
6 part of the discovery reform that was passed  
7 by the Legislature.

8 So it's premature -- I think most DA's  
9 offices are trying to comply because they --  
10 you know, at some time the executive order  
11 will be lifted and the full extent of the  
12 legislation will take effect again. So I  
13 think a lot of the DA's offices -- it would  
14 be a good question for them, better for them  
15 than to me. But that they're complying  
16 nonetheless or, you know, gathering the  
17 information that they're going to need  
18 because the day of reckoning will come when  
19 the executive order is lifted and the reform  
20 takes full effect again.

21 As for layoffs, we have not had to  
22 institute layoffs. And that was the primary  
23 -- our primary goal and what led to the  
24 decision not to certificate -- recertificate

1 the 46 Supreme Court justices, because it was  
2 an either/or proposition. Either we saved  
3 the money from not certificating the Supreme  
4 Court justices or we laid off over 300  
5 employees. And we made the difficult  
6 decision that it made more sense, as  
7 difficult as it was, to not certificate the  
8 judges rather than to lay off the employees.

9 And that was motivated by operational  
10 reasons, where we felt we could not afford to  
11 lose more employees on top of the attrition  
12 that's resulted from our strict hiring  
13 freeze. And it was also, we felt, the humane  
14 decision, given that if there were layoffs it  
15 would be disproportionately younger employees  
16 with lesser seniority who would not be  
17 eligible for pensions and would have great  
18 difficulty finding other employment, you  
19 know, in this economic situation.

20 So I hope that answers your questions.

21 ASSEMBLYWOMAN RAJKUMAR: So when you  
22 say -- I know my time is up, but when you say  
23 there's no layoffs, I mean, it was reported  
24 in the Daily News that there was 300 layoffs.



1 Can you clarify for me what you mean?

2 THE MODERATOR: Time has expired.

3 CHIEF ADMIN. JUDGE MARKS: Yeah --  
4 well, it's important. There were no layoffs.  
5 We avoided -- if the 46 judges had been  
6 certificated, that would have translated into  
7 and compelled us to lay off 325 employees.

8 CHAIRWOMAN WEINSTEIN: Judge -- Judge,  
9 we're going to go back to the Senate now.  
10 Thank you.

11 CHAIRWOMAN KRUEGER: Thank you very  
12 much.

13 We next go to Senator Gounardes, from  
14 Brooklyn.

15 THE MODERATOR: I do not see him in  
16 here, Senator Krueger.

17 CHAIRWOMAN KRUEGER: All right, we'll  
18 circle back to him.

19 Senator Kevin Thomas.

1                   Thank you, Chairwoman Krueger, and  
2                   thank you, Judge Marks.

3                   I just want to take this opportunity  
4                   to say how disappointed I am with New York  
5                   City Courts and their handling of COVID.  
6                   There are several issues which I would like  
7                   to address, but I will focus my time on two  
8                   things.

9                   First, the need for cleaning at the  
10                  courthouses. I remember talking about this  
11                  earlier on, but I specifically mention the  
12                  Bronx Supreme Court. Every other day a court  
13                  employee tests positive with COVID, but  
14                  proper cleaning is not done in the areas  
15                  where the employee worked. And there are set  
16                  guidelines for worker safety, and I don't  
17                  think the courts are following that.

18                  Second, it's nearly impossible for  
19                  litigants to get their court file. You know,  
20                  this kind of delay is resulting in litigants  
21                  not being able to fight their cases. This is  
22                  a violation of due process.

23                  I'm sure, again, this is not the first  
24                  time you're hearing about these issues, and I

1 cannot believe this is not rectified. Are  
2 you putting pressure on supervising judges at  
3 these courts to fix these problems?

4 CHIEF ADMIN. JUDGE MARKS: Okay, just  
5 going to the first issue with court cleaning.  
6 And you and I have talked about this, and  
7 I've looked into it every time we've talked  
8 about it, and there's no question in my mind  
9 that there is extensive cleaning going on  
10 when -- particularly when a court employee is  
11 reported that they've tested positive for the  
12 virus, there's extensive cleaning going on.  
13 It's done by, in New York City -- the DCAS  
14 agency is, as you know -- maybe not everyone  
15 knows our courthouses are not owned by the  
16 state court system or maintained by the state  
17 court system, they're owned and maintained by  
18 local government, New York City -- and  
19 outside the city, the county governments.

20 And there is no question in my mind --  
21 and we really have to get to the bottom of  
22 this. It might be helpful if we knew who --  
23 if we had specific information where people  
24 believe that cleaning is not being done.

1           Because I've talked to many people about this  
2           within the Office of Court Administration,  
3           and we've talked to people within DCAS, the  
4           responsible agency in New York State  
5           government, and there is extensive cleaning  
6           going on. Not just regular cleaning -- which  
7           is elevated over the regular cleaning that's  
8           done in normal times, and that was done  
9           pre-pandemic -- but particularly when someone  
10          -- we learn that an employee or someone else  
11          has been in the building or has been in a  
12          courtroom who subsequently tests positive,  
13          there's very extensive state-of-the-art  
14          cleaning going on in those situations.

15                 So I'm not -- I'm not disputing what  
16          you're hearing, but we -- you and I have to  
17          talk further and get specific information  
18          about where we think there have been  
19          problems. And I can promise you, you know,  
20          we will look into them. And if there are  
21          problems, we will address them.

22                 But -- but what I'm being told by  
23          everyone involved in this is that -- what I  
24          already knew is that we have very extensive

1 cleaning protocols in place in all of our  
2 courthouses throughout the state.

3 As to your second question, if I could  
4 quickly, about getting files, we spoke about  
5 this as well, Senator Thomas. I looked into  
6 it. It is in fact a problem. It's a  
7 function mainly of limited and reduced  
8 staffing in the courthouses. But you've  
9 identified a legitimate problem, it's a  
10 problem we need to address. The ultimate  
11 answer is to do more scanning so that we have  
12 fewer or no paper records and everything is  
13 digital and online and accessible to  
14 lawyers -- and the public, for that matter.  
15 And that's something, you know, we will work  
16 on. That's not a simple thing to do across  
17 the board, but New York City Civil Court,  
18 where you've identified the problem, does not  
19 have efilings --

20 (Zoom interruption.)

21 SENATOR THOMAS: Will you mute,  
22 please.

23 Judge, I know we are running out of  
24 time. But in the meantime, what are

1 litigants supposed to do when they've filed  
2 their --

3 CHAIRWOMAN KRUEGER: No, sorry, you've  
4 already run out of time. So you can follow  
5 up with him in writing or afterwards, all  
6 right?

7 CHIEF ADMIN. JUDGE MARKS: We'll talk  
8 further.

9 SENATOR THOMAS: All right. Thank  
10 you, Judge.

11 Thank you, Chair.

12 CHAIRWOMAN KRUEGER: Thank you.

13 CHAIRWOMAN WEINSTEIN: We go to  
14 Assemblyman Epstein, three minutes.

15 ASSEMBLYMAN EPSTEIN: Thank you, Chair  
16 Weinstein.

17 And good to see you, Judge.

18 Just -- I wanted to second the point  
19 about the money for legal services. I think  
20 the cuts are going to be catastrophic for  
21 millions of New Yorkers. I hope you  
22 reconsider the 10 percent cut, because Judge  
23 Lippman worked very hard to get to \$100  
24 million, and it hasn't budged since then. We

1 want the number to go up, not down, during a  
2 pandemic, and I hope you figure out a way to  
3 just support additional funding.

4 On diversity of the bench, you know, I  
5 know there's a huge issue with the lack of  
6 diversity of the bench. And I'm wondering --  
7 you know, a report came out last year saying  
8 there's more diversity in judges that are  
9 elected than appointed. And I'm wondering  
10 about how you feel about moving towards more  
11 of an elected bench where that will allow  
12 more diversity in our judicial system.

13 CHIEF ADMIN. JUDGE MARKS:  
14 Institutionally, we don't have a position on  
15 that. I mean, we have great elected judges,  
16 we have great appointed judges. We really  
17 can't take a position and get -- that's a  
18 politically charged issue, an issue for the  
19 Legislature, not for the court system.

20 I will tell you, though, that the  
21 one --

22 ASSEMBLYMAN EPSTEIN: Judge, just --  
23 it isn't really, because the court makes  
24 appointments, you make Housing Court





1           you know, we passed making sure that ICE was  
2           no longer in the court system. I wanted to  
3           make sure there wasn't any implications for  
4           that.

5                        I know I have less than a minute left,  
6           so just before you answer that, I want to  
7           just echo my colleagues about -- around  
8           arraignments, how important it is for  
9           in-person conversations between a lawyer and  
10          their client. I've been a lawyer for over 25  
11          years in New York, and I can tell you that,  
12          you know, you can't really get the same thing  
13          on Zoom as you can in person. And I think  
14          especially people in criminal proceedings  
15          really need to have that face-to-face time.

16                       And if you could also ask -- answer  
17          about the declaration form for commercial and  
18          residential tenants, what are you hearing in  
19          the court system, you know, about that. And  
20          I'll give you the time you have to answer  
21          those two quick questions.

22                       CHIEF ADMIN. JUDGE MARKS: Okay.

23                       With the declarations, about a half a  
24          million were sent out by our office. We have

1 not gotten a lot of feedback yet, how that's  
2 working. There have been -- and I can get  
3 you, I don't have it at my fingertips, but I  
4 can get you the number. And it's a  
5 fast-moving target because it increases every  
6 day, but -- the return of signed  
7 declarations. But I can get you numbers on  
8 that.

9 But the important news is we did get  
10 out all of them several weeks ago. The form  
11 that -- the manual form that's sent out is in  
12 English and Spanish. But I think it's six or  
13 seven most commonly spoken languages other  
14 than English. The form is accessible on our  
15 website, and that's noted in different  
16 languages on the hard copy form that we sent  
17 out.

18 So we're optimistic that this will  
19 work out very well. And -- but more  
20 information to come.

21 ASSEMBLYMAN EPSTEIN: Thank you.

22 CHAIRWOMAN WEINSTEIN: Thank you.

23 We'll go to the Senate, but before that I  
24 just want to introduce some members who have

1 joined us since we began: Assemblyman  
2 O'Donnell, Assemblyman Kim, Assemblyman  
3 Byrne, Assemblyman Ashby and  
4 Assemblyman Palmesano.

5 Now to the Senate.

6 CHAIRWOMAN KRUEGER: Thank you.

7 I was going to call on Senator John  
8 Brooks -- ah, here he is in his chair.  
9 Perfect timing. Senator John Brooks, chair  
10 of Homeland Security and Veterans,  
11 five minutes.

12 You need to de-mute. Unmute yourself,  
13 John.

14 SENATOR BROOKS: Yeah, it wasn't  
15 cooperating. Thank you, Madam Chair, I  
16 appreciate it.

17 Judge, we appreciate you being with us  
18 today.

19 I want to just move maybe to a  
20 brighter note for just a moment and ask if  
21 you would comment on the Veterans Treatment  
22 Courts, the expansion of the program, the  
23 success we're seeing, where you think that  
24 can go, and how you see or don't see the

1 acceptance of other neighboring counties  
2 accepting to participate in the program.

3 CHIEF ADMIN. JUDGE MARKS: The  
4 Veterans Courts are terrific. We've expanded  
5 them. We have 37 Veterans Treatment Courts  
6 throughout the state, and that's not enough,  
7 we need more in the remaining counties. We  
8 have an office that's dedicated within the  
9 Office of Court Administration to assisting  
10 localities with problem-solving courts,  
11 including the Veterans Courts.

12 And, I mean, I've never heard a word  
13 of criticism, or at least as to the concept  
14 of a Veterans Court, on either side of the  
15 aisle or anyone, any stakeholder in the  
16 justice system in this state, I've never  
17 heard anything other than positive comments  
18 and response about Veterans Courts. And  
19 we're fully committed to them.

20 And as I said, we're not stopping at  
21 37. Maybe when I come back next year to  
22 testify it will be 62, or much closer to 62.

23 SENATOR BROOKS: That sounds good.  
24 And I agree, I think that's a great tool and

1 great success. And I thank you, and I yield  
2 back my time.

3 CHAIRWOMAN KRUEGER: Thank you very  
4 much.

5 Assembly.

6 CHAIRWOMAN WEINSTEIN: Yes, we go to  
7 Assemblyman Goodell, three minutes.

8 ASSEMBLYMAN GOODELL: Thank you very  
9 much, Chairman.

10 Chairman, can you hear me?

11 CHAIRWOMAN WEINSTEIN: Yes.

12 ASSEMBLYMAN GOODELL: Thank you very  
13 much, Chairman, and thank you very much to  
14 Judge Marks.

15 As you noted earlier in your testimony  
16 that Judiciary curtailed many in-person  
17 proceedings earlier this year, and of course  
18 that's creating even more backlogs. And as  
19 you acknowledged in earlier testimony, the  
20 backlog is substantial and growing. Of  
21 course one of the largest and most  
22 significant backlogs is in the Housing Court,  
23 because we haven't had any evictions now --  
24 it looks like it will be over a year.

1           My question, though, is at the same  
2           time that the court system is closing down  
3           in-person proceedings and creating more  
4           backlog, virtually every private-sector  
5           business has been reopening. And the court  
6           system itself has been giving several  
7           decisions striking down regulations that keep  
8           the private sector closed.

9           So my question is why are the courts  
10          closing to in-person proceedings while the  
11          private sector is doing everything it can to  
12          open? And isn't the closing of the courts to  
13          in-person proceedings merely exacerbating the  
14          already horrific backlog that exists in  
15          Housing Court and some of our other courts?

16          CHIEF ADMIN. JUDGE MARKS: Well, with  
17          all due respect, I think the analogy to  
18          business organizations, you know, may not be  
19          a sound one.

20          Courts are different in many respects  
21          from most private organizations in that we  
22          have tens of thousands -- in normal times we  
23          have tens of thousands of people coming into  
24          our buildings every day. And, you know, to

1 suggest that we should go back to -- now,  
2 coming out of a second resurgence, that we  
3 should go back to normal in-person operations  
4 is just contrary to the advice of every  
5 public health expert we've talked to,  
6 including our own public health expert.

7           And, you know, we haven't -- we did  
8 very early on in the pandemic, in late March  
9 and April and part of May, shut down all  
10 in-person operations, and we were conducting  
11 business entirely virtually. And then we --  
12 in the spring, the later spring, we started  
13 to expand in-person operations. We brought  
14 back, among other in-person operations, grand  
15 juries and criminal and civil jury trials,  
16 along with other in-person operations.

17           But we -- with the onset of the second  
18 resurgence, we did cut that back again. We  
19 have not suspended grand juries. Every  
20 county in the state continues to have at  
21 least one functioning grand jury. And, you  
22 know, when we're advised by the experts that  
23 it's safe to resume jury trials, we will do  
24 that. In fact, we've been talking about that

1 recently.

2           And if things go well -- and we can't  
3 predict the future with this pandemic, but if  
4 things continue to improve, we will resume  
5 jury trials, which are clearly a critical  
6 part of the justice system, both on the  
7 criminal and civil side. We can't have a  
8 fully functioning court system without jury  
9 trials. To some extent it's what drives the  
10 court system, because although as you all  
11 know a very small percentage of cases  
12 actually go to trial, the opportunity to try  
13 a case is what drives settlements and pleas  
14 and other dispositions.

15           So we're entirely guided by public  
16 health experts and what they're saying, what  
17 they're advising us. And hopefully we will  
18 be able to resume more in-person proceedings.  
19 We haven't suspended all of them, but  
20 hopefully we'll be able to resume more and  
21 continue that and return things as close to  
22 normal before everyone is vaccinated as best  
23 we can.

24           ASSEMBLYMAN GOODELL: Thank you,



1 Judge. I do note that I sent you some  
2 questions back in November of last year  
3 relating to the budget. I hope and trust  
4 you'll be providing me with a response to  
5 those?

6 CHIEF ADMIN. JUDGE MARKS: Sure. I  
7 can call you or respond in writing or both.

8 ASSEMBLYMAN GOODELL: Thank you very  
9 much, Judge.

10 CHIEF ADMIN. JUDGE MARKS: Thank you.

11 CHAIRWOMAN WEINSTEIN: Thank you. We  
12 go to Assemblywoman Joyner, three minutes.

13 ASSEMBLYWOMAN JOYNER: Okay, thank  
14 you. Good morning, everyone.

15 I want to just say fantastic job by  
16 our chairs who are running all of these  
17 hearings. Thank you so much.

18 Good seeing you again, Judge Marks.

19 CHIEF ADMIN. JUDGE MARKS: Good to see  
20 you.

21 ASSEMBLYWOMAN JOYNER: I have a couple  
22 of questions. As you know, this pandemic has  
23 placed a strain and an unprecedented backlog  
24 on the New York State court system. And, you

1 know, I want to echo the concerns that my  
2 Bronx colleagues have brought up of, you  
3 know, it's concerning that OCA didn't consult  
4 with the Legislature or with the Governor's  
5 office, with key stakeholders, trial lawyers,  
6 bar associations. It's very concerning  
7 because, you know, we're all partners in this  
8 whole thing, and it would be helpful that,  
9 you know, we can all be included in the  
10 discussions to help make sure that the court  
11 system is running smoothly for all litigants.

12 So my first question is, did OCA  
13 conduct any study on the impact of  
14 eliminating these 46 judges from the court  
15 system and its impact on the backlog of the  
16 court system?

17 CHIEF ADMIN. JUDGE MARKS: No, we  
18 conducted no formal study. But the decision  
19 was based on our long and in-depth experience  
20 in administering and managing the courts.

21 And the judges -- by definition, the  
22 judges who were not certificated are judges  
23 who sit in the Supreme Court. And we felt  
24 that the alternative -- if the judges were

1           certificated, we would have to lay off  
2           employees. That would have impacted  
3           disproportionately on courts that have large  
4           numbers of self-represented litigants who of  
5           necessity have to rely on court staff --  
6           court officers, court clerks, help desk  
7           employees -- for advice and direction on how  
8           to navigate the court system.

9                     And we felt that -- not that this was  
10           a simple decision or an easy decision. It  
11           wasn't. Don't misunderstand me -- but that  
12           given the two bad choices, the worst choice  
13           would have been to certificate the judges and  
14           have to lay off hundreds of employees.

15                    ASSEMBLYWOMAN JOYNER: Well, I hope  
16           that there will be a follow-up and a review  
17           of the impact of this.

18                    And I have 30 seconds left, but you  
19           and I worked very closely on making sure we  
20           had a Legal Hand site in the Bronx. It has  
21           closed, unfortunately. It would be great to  
22           figure out how we can revamp that and revive  
23           that.

24                    And then we've also worked on the

1 language access problem in the Housing Court.  
2 Are there any plans from OCA to expand this  
3 in other courts?

4 CHIEF ADMIN. JUDGE MARKS: The simple  
5 answer is yes. We need to do more with  
6 language access. It's a very challenging  
7 area. It can involve more resources. We  
8 don't have a lot more resources.

9 But the simple answer to your question  
10 is yes, language access initiatives can be  
11 expanded to other courts, and that's  
12 something we will look at.

13 ASSEMBLYWOMAN JOYNER: Thank you.

14 CHAIRWOMAN WEINSTEIN: Thank you.

15 We're going to go -- I believe the  
16 Senate does not have any other --

17 CHAIRWOMAN KRUEGER: Correct.

18 CHAIRWOMAN WEINSTEIN: Okay, so we're  
19 going to go now to Assemblywoman Seawright,  
20 three minutes.

21 ASSEMBLYWOMAN SEAWRIGHT: Thank you,  
22 Chair Weinstein, and Judge Marks for your  
23 testimony today.

24 I just have a couple of questions.

1 Under Judge DiFiore's proposed simplification  
2 plan, certain courts like Family Court and  
3 Surrogate's Court would join the Supreme  
4 Court. Family Court facilities have  
5 designated areas that Supreme Courts lack,  
6 like childcare and a help desk for litigants  
7 who are unrepresented. How will OCA take  
8 this into account?

9 CHIEF ADMIN. JUDGE MARKS: We would  
10 take it fully into account. Under the  
11 proposal, Family Court -- we would have a  
12 consolidated Supreme Court, which would  
13 include Family Court, but we would have  
14 divisions within the Supreme Court, including  
15 a Family Law Division.

16 So sort of the unique layout in  
17 resources that Family Courts have now would  
18 continue. I mean, those facilities obviously  
19 would continue to be used and the design of  
20 those facilities would continue to support  
21 the way that the cases would be handled,  
22 although they would be Supreme Court cases,  
23 not Family Court cases, under our proposal.

24 ASSEMBLYWOMAN SEAWRIGHT: Okay, thank

1           you.

2                   The pandemic has reduced the ability  
3           of OCA to host events, trainings, in-person  
4           conferences, saving money in your budget.  
5           Have you put a dollar amount on how much has  
6           been saved from all of these in-person  
7           trainings and hotel stays for your senior OCA  
8           officials now that don't travel?

9                   CHIEF ADMIN. JUDGE MARKS: We can  
10          calculate that number. I don't have it with  
11          me at the moment, but we will get you that  
12          number.

13                   So there's been -- we've done a lot of  
14          training, though, I just want to emphasize  
15          that. It's been online primarily for health  
16          reasons, but it's also had the benefit of  
17          saving us some money. And I will get you  
18          that number.

19                   ASSEMBLYWOMAN SEAWRIGHT: Okay, thank  
20          you.

21                   CHAIRWOMAN WEINSTEIN: So now we go to  
22          Assemblywoman Fahy.

23                   ASSEMBLYWOMAN FAHY: Thank you, Judge.  
24          I know this -- a couple of questions have

1           been asked already, but I just want to go  
2           back to a couple of them.

3                     One, I just want to reiterate my  
4           sharing of the concerns with the courts being  
5           closed for the access. And certainly I've  
6           seen a lot of concerns raised about that  
7           we're not processing those who are accused  
8           and -- so very concerned about, you know,  
9           what is needed with technology and what have  
10          you. But I also -- in order to keep them  
11          open and keep them full functioning as well  
12          as to address the backlog.

13                    But my question, though, is also on  
14          the retirements. What is the plan to reduce  
15          the number of elected Civil Court judges by  
16          appointing them to the Supreme Court? And  
17          I'll get back to the retirements.

18                    CHIEF ADMIN. JUDGE MARKS: Just -- if  
19          I understand your question, you mean what is  
20          the plan for designating lower court judges  
21          as acting Supreme Court justices who can then  
22          sit in Supreme Court and handle Supreme Court  
23          cases? Is that your question?

24                    ASSEMBLYWOMAN FAHY: Yes, reduce --

1           yes, to reduce the number of elected  
2           Civil Court judges by appointing them to the  
3           Supreme Court. How do you plan to reduce  
4           that?

5                     CHIEF ADMIN. JUDGE MARKS: And are you  
6           --

7                     ASSEMBLYWOMAN FAHY: As well as, you  
8           know -- as well as -- I'll combine it with  
9           the next one, which is to increase the number  
10          of Court of Claims judges, the plan to  
11          increase the Court of Claims judges appointed  
12          to the Supreme Court. So however you want to  
13          broadly address that.

14                    CHIEF ADMIN. JUDGE MARKS: Well, Court  
15          of Claims is entirely the province of the  
16          Governor. And there are Court of Claims  
17          vacancies. And, you know, those nominations  
18          and appointments are usually made at the end  
19          of the legislative session.

20                    So I'm not aware that there's been any  
21          discussion yet about that. But there will  
22          be, you know, later in the spring, I would  
23          think.

24                    In terms of elevating lower court



1 judges, Civil Court judges to Supreme Court,  
2 we have not done that yet this year. That's  
3 usually done at the beginning of every  
4 calendar year when we go through and rethink  
5 all judicial assignments throughout the  
6 state. We haven't done that this year at  
7 all. We haven't appointed new acting Supreme  
8 Court justices with judges from the lower  
9 courts. We will do that if we determine that  
10 it's needed.

11 But I think, as someone suggested a  
12 while before, it's kind of a zero-sum game.  
13 Because if you take judges out of the lower  
14 courts and you put them in Supreme Court,  
15 you've helped Supreme Court but you've robbed  
16 the lower court. So it's kind of an art, not  
17 a science, I would say.

18 But it's an option that we have, and  
19 it's a critical option that will help us  
20 attack backlogs as we go forward,  
21 particularly post-pandemic.

22 ASSEMBLYWOMAN FAHY: Okay. Just  
23 overall, just want to share the concerns on  
24 the retirements, especially the diversity

1 among the retirements.

2 Thank you so much, Judge, and I think  
3 I've used my time. Thank you, Chair.

4 CHIEF ADMIN. JUDGE MARKS: Thank you.

5 CHAIRWOMAN WEINSTEIN: We go now to  
6 Assemblyman Lawler.

7 ASSEMBLYMAN LAWLER: Thank you,  
8 chairwoman.

9 Judge, thank you for joining us this  
10 morning, appreciate your testimony.

11 I want to focus in on the  
12 Ninth Judicial District, which is where I  
13 live; Rockland County is part of that  
14 district. Currently, there are 40 judges  
15 within that judicial district -- 29 of them  
16 come from Westchester, 11 of them come from  
17 the other four counties: Rockland, Orange,  
18 Putnam and Dutchess.

19 So roughly 72.5 percent of the judges  
20 that are elected come from Westchester  
21 County. Westchester makes up about 47  
22 percent of the total population of the  
23 judicial district; the other four counties  
24 make up about 53 percent.

1           I have put legislation in to create a  
2           new judicial district to ensure that there is  
3           adequate representation for the other  
4           counties within this judicial district.  
5           Clearly, you know -- and obviously that is in  
6           part a political problem, where these judges  
7           are being elected from. But clearly the  
8           other four counties are not getting equal  
9           representation.

10           I'm just curious if you have any  
11           comment as to whether or not it might make  
12           sense to create a new judicial district to  
13           ensure equal representation within those  
14           other four counties.

15           CHIEF ADMIN. JUDGE MARKS: Well,  
16           remember, we do have authority within a  
17           judicial district to move judges around. So  
18           there are judges who are either elected from  
19           Westchester or reside in Westchester who sit  
20           in other counties. And we sort of every  
21           year -- and throughout the year, for that  
22           matter -- look at that to make sure that the  
23           assignments are consistent with the caseloads  
24           and the backlogs within all the counties of a

1 judicial district.

2 But in terms of creating another  
3 judicial district, that's something we could  
4 look at. And happy to talk to you about that  
5 to see if that makes sense and, you know,  
6 meets the district -- wisely meets the  
7 district -- the needs and the circumstances  
8 of the district.

9 ASSEMBLYMAN LAWLER: I appreciate  
10 that, and I very much look forward to  
11 speaking with you about that. I think the  
12 caseload will show that the other four  
13 counties certainly are on par with  
14 Westchester, and certainly there is a need  
15 for more judges to be sitting in those other  
16 counties.

17 In the time I have left, I would also  
18 just ask, currently, do you know how many  
19 judges from the 9th J.D. have been assigned  
20 to the Bronx or other judicial districts  
21 outside of the 9th J.D.?

22 CHIEF ADMIN. JUDGE MARKS: I do not  
23 believe any have been assigned to other  
24 judicial districts. But there are some

1 judges who are assigned to the Bronx, that's  
2 correct.

3 ASSEMBLYMAN LAWLER: Okay. And the  
4 reason for that is based on caseload? Or  
5 what's -- what's the reason why they are not  
6 serving the people they were elected to  
7 serve?

8 CHIEF ADMIN. JUDGE MARKS: It's based  
9 entirely on caseload and the caseload needs  
10 and backlogs in the Bronx.

11 And the judges who have been  
12 reassigned -- and these are not permanent  
13 reassignments. They're usually temporary  
14 reassignments. It could be a year, it could  
15 be less than a year, it could be longer than  
16 a year. But they're temporary assignments,  
17 and it's strictly based on need. And it's  
18 with the cooperation and participation of the  
19 individual judges, you know, who have agreed  
20 to a temporary reassignment.

21 CHAIRWOMAN WEINSTEIN: Thank you.

22 ASSEMBLYMAN LAWLER: Okay, I'd like to  
23 follow up with you on that. Thank you.

24 CHIEF ADMIN. JUDGE MARKS: Sure.

1 CHAIRWOMAN WEINSTEIN: Thank you.

2 We go to Assemblywoman Kelles.

3 ASSEMBLYWOMAN KELLES: Good morning,  
4 Judge Marks. It's nice to e-meet you, for  
5 starters. And thank you to both the --

6 CHIEF ADMIN. JUDGE MARKS: Good  
7 morning.

8 ASSEMBLYWOMAN KELLES: Good morning.

9 Thank you to both chairwomen for their  
10 endurance, if nothing else, through these  
11 meetings.

12 I have one question related to a  
13 comment earlier about the impact of the  
14 discovery reform on district attorney  
15 offices. I just wanted to share a bit of  
16 information. I know in one of my counties  
17 they've had to hire a third investigator and  
18 an additional paralegal. They've had to add  
19 their own dedicated wireless network due to  
20 the bandwidth they're using. And they have  
21 also had to send a lot of the labs out to  
22 private labs because of a backlog at the  
23 state labs, and those are, you know, multiple  
24 times more expensive.

1                   So I'm curious what data you're  
2                   looking at that shows that there's no real  
3                   impact on costs. I certainly think that  
4                   discovery reform was -- I personally think it  
5                   was a great idea, but the cost impact and the  
6                   lack of funding is concerning.

7                   So I wanted to hear your response to  
8                   that and if there's any data or connection or  
9                   communication with the district attorneys on  
10                  that point.

11                  CHIEF ADMIN. JUDGE MARKS: Yeah, I  
12                  think I said that I agreed that there -- the  
13                  new legislation imposes significant new  
14                  burdens on district attorneys' offices, and  
15                  it may well -- they might well benefit and  
16                  make a good case for additional resources.

17                  I -- I haven't studied that particular  
18                  issue myself, but I think there's no question  
19                  the new law imposes significant new burdens  
20                  on the DAs, and we certainly -- it's not  
21                  really our issue. We're more concerned and  
22                  focused on additional burdens on the court  
23                  system and whether we would require more  
24                  resources as a result of this new legislation

1 or any new legislation.

2 But we certainly would be sympathetic  
3 to district attorneys' pleas for additional  
4 resources to help them better comply with the  
5 new discovery law.

6 ASSEMBLYWOMAN KELLES: And I'm  
7 curious, in other comments on -- we had many  
8 questions before; some of the points I'm very  
9 much in support of about funding concerns for  
10 the 46 judges of course as well. And I'm  
11 curious if there's any data on -- being  
12 collected on the time to arraignments that  
13 we're seeing. Is that being tracked? And  
14 can that be shared in response to the loss of  
15 the 46 judges?

16 CHIEF ADMIN. JUDGE MARKS: Well, these  
17 46 judges did not sit in the arraignment  
18 parts in the lower courts.

19 ASSEMBLYWOMAN KELLES: But it can  
20 create a backlog, correct?

21 CHIEF ADMIN. JUDGE MARKS: I -- well,  
22 I'm not so sure about that. I don't know if  
23 I agree with that in terms of the -- we have  
24 enough judges to staff the arraignment parts.



1           There really haven't been delays in  
2           arraignment.  There's a mandate from an old  
3           Court of Appeals decision which says that  
4           people who are arrested for crimes and held  
5           in custody and brought to court for  
6           arraignment should presumptively be arraigned  
7           within 24 hours.

8                     And we do have data on that, and we do  
9           track that regularly.  And we believe that  
10          the 24-hour rule is being complied with,  
11          particularly in New York City, where  
12          compliance with that rule has been a  
13          challenging issue for the courts and the  
14          whole criminal justice system for many, many  
15          years.  Arrests are down now, and the  
16          compliance for a speedy arraignment, if you  
17          will, has been good, from all the numbers  
18          that I've seen.

19                    ASSEMBLYWOMAN KELLES:  It would be  
20          wonderful --

21                    CHAIRWOMAN WEINSTEIN:  Thank you.  
22          Thank you, Judge.

23                    We're going to move on now to  
24          Assemblyman O'Donnell.

1 ASSEMBLYMAN O'DONNELL: Thank you very  
2 much, Chair.

3 I've not been here for all of it; I  
4 was conducting a committee meeting. But I  
5 want to make sure that you are hearing us.  
6 Many of us are disturbed -- I'm outraged  
7 about your decision to not certify some of  
8 the judges who are available to be  
9 recertified. I'm disturbed because in my  
10 days when I was a mere Legal Aid lawyer, I  
11 would be accused of judge shopping if I  
12 hand-picked who could and who could not get  
13 certified.

14 Additionally, just before you  
15 decertified those people, you put three new  
16 Court of Claims judges in. Can you explain  
17 the rationale for creating three new  
18 judgeships when you're telling the most  
19 talented and experienced judges they can't  
20 stay on the bench?

21 CHIEF ADMIN. JUDGE MARKS: Well, we  
22 don't appoint Court of Claims judges. The  
23 Governor does that. So that was not our  
24 decision and never would be our decision.

1 In terms of the --

2 ASSEMBLYMAN O'DONNELL: Do you play  
3 any role in who gets those jobs, sir?

4 CHIEF ADMIN. JUDGE MARKS:

5 Occasionally we're asked for information if  
6 there are judges who are under consideration,  
7 as opposed to lawyers off the street.

8 Occasionally we're asked for information --  
9 caseloads and information on judges who are  
10 seeking nomination and apartment appointment  
11 to the Court of Claims.

12 But in the end, that's the Governor's  
13 decision, not our decision.

14 ASSEMBLYMAN O'DONNELL: So you're  
15 suggesting to {inaudible} that you made a  
16 money decision about the careers of these  
17 extraordinary jurists and then the Governor  
18 in the next moment put three new people on  
19 the bench and you didn't know?

20 CHIEF ADMIN. JUDGE MARKS: Well, I  
21 think the timing of it was the reverse. I  
22 could be wrong about this, but I believe the  
23 Governor made -- I think it was four Court of  
24 Claims appointments in June, you know, when

1 those appointments are normally made, and the  
2 decision about whether to certificate the  
3 retired Supreme Court justices was made in  
4 late September.

5 ASSEMBLYMAN O'DONNELL: Well, I could  
6 hardly believe that the financial problems  
7 that you bring up didn't exist in June but  
8 did exist in September.

9 Having said that, I'm concerned about  
10 the courts that are open, and I'm  
11 particularly concerned about the judges who  
12 are asked to staff them. Can you assure me  
13 that all judges who are staffing in-person  
14 courtrooms in the City of New York are  
15 getting access to COVID vaccine?

16 CHIEF ADMIN. JUDGE MARKS: I can't  
17 assure you of that. We have urged the State  
18 Health Department to include judges among the  
19 groups of people that are eligible for the  
20 vaccine. We think it's incomprehensible that  
21 judges are not included on the eligibility  
22 list, and hopefully that happens soon. I  
23 couldn't agree with you more on that one.

24 ASSEMBLYMAN O'DONNELL: Well, I can

1           assure you it is not happening currently, and  
2           I can assure you that the other employees of  
3           the court system who stand next to the judges  
4           are in fact getting the shot, but the judges  
5           are not.

6                    CHIEF ADMIN. JUDGE MARKS:  You're  
7           absolutely correct about that.

8                    ASSEMBLYMAN O'DONNELL:  Well, what can  
9           you do about that, Judge?

10                   CHIEF ADMIN. JUDGE MARKS:  We -- we --  
11           the executive branch determines who is  
12           eligible.  We can't decide that on our own.  
13           We can interpret the guidelines, the language  
14           of the guidelines, and we have interpreted  
15           the language of the guidelines as applying to  
16           our staff.  But the language of the  
17           guidelines does not apply to judges, and  
18           we've urged -- believe me, we have urged the  
19           Health Department, the Governor's office to  
20           include judges among the categories of people  
21           and groups that are eligible and will  
22           continue to urge them to do that.

23                    CHAIRWOMAN WEINSTEIN:  Thank you.

24                    ASSEMBLYMAN O'DONNELL:  Well, I would

1           certainly --

2                   (Overtalk.)

3           CHAIRWOMAN WEINSTEIN: The time is --  
4           we're a minute over. Thank you. Thank you,  
5           Assemblyman.

6           ASSEMBLYMAN BURDICK: Thank you, Madam  
7           Chair. And thank you, Your Honor, for your  
8           presentation.

9                   I have two questions. The first comes  
10           from one of the town judges in my district,  
11           who asks about the sufficiency of funding for  
12           the local courts for dealing with COVID-19.  
13           If you could address that.

14                   And the second question stems from my  
15           experience in local government regarding  
16           specialized courts. And for example, in  
17           Westchester County there are specialized  
18           parts in several areas, including foreclosure  
19           settlement and environmental claims. And my  
20           experience is they work well, and I'm  
21           wondering whether OCA is looking at  
22           establishing other specialized courts and, if  
23           so, what areas do you feel may be considered?

24                   CHIEF ADMIN. JUDGE MARKS: Just going

1 to your first question, the town and village  
2 courts are part of the unified court system,  
3 but they're not funded by the state, they're  
4 funded by -- unlike all the other courts in  
5 the state, the county courts, the family  
6 courts, the surrogate's courts, the city  
7 courts, the Supreme Court -- the town and  
8 village courts are locally funded.

9 And although we do have a grant  
10 program that we've had in place for years --  
11 there's several million dollars in the grant  
12 program. That would be continued in our  
13 proposed budget. But we -- we don't have the  
14 money in our budget to fund the town and  
15 village courts in terms of PPE and  
16 retrofitting of courthouses.

17 We do have this grant program that  
18 they could take advantage of, but ultimately  
19 that's something the Legislature might want  
20 to look at, because the town and village  
21 courts are an important part of the court  
22 system. They -- well over a million people  
23 go through the town and village courts -- it  
24 may be 2 million people -- year in and year

1 out. And we can't reopen the rest of the  
2 court system to full in-person proceedings  
3 and not do that for the town and village  
4 courts.

5 So it's something that the Legislature  
6 should look at in terms of supporting those  
7 courts.

8 As for problem-solving courts, we are  
9 fully committed to our problem-solving  
10 courts. There are hundreds of  
11 problem-solving courts throughout the State  
12 of New York. We're committed to creating  
13 more. I mean, they're all successful, they  
14 all address their own unique and specific  
15 problems. And to answer your question, we're  
16 fully committed to our existing  
17 problem-solving courts and we're committed to  
18 expanding them to additional jurisdictions.

19 ASSEMBLYMAN BURDICK: Thank you.

20 I do know that the town and village  
21 courts are supported locally, having been a  
22 supervisor of a town. And I certainly will  
23 pursue that suggestion about the Legislature  
24 looking at supplemental funding.



1 Thank you very much.

2 CHIEF ADMIN. JUDGE MARKS: Thank you.

3 CHAIRWOMAN WEINSTEIN: We now go to  
4 Assemblyman Byrne, three minutes.

5 UNIDENTIFIED SPEAKER: You're muted.

6 CHAIRWOMAN WEINSTEIN: Assemblyman --  
7 yeah, please.

8 ASSEMBLYMAN BYRNE: Thank you. Can  
9 you hear me now? Are we good?

10 CHAIRWOMAN WEINSTEIN: Yes.

11 CHAIRWOMAN KRUEGER: Yes.

12 CHIEF ADMIN. JUDGE MARKS: Yes.

13 ASSEMBLYMAN BYRNE: Okay. Thank you,  
14 Chair. And thank you, Judge Marks.

15 My question is relating to the  
16 Drug Treatment Courts General Fund. My  
17 understanding is that it's from  
18 \$15.8 million, and it's being decreased by  
19 nearly half a million. My question is, how  
20 does that affect the county drug treatment  
21 courts in the 9th Judicial District?  
22 Specifically, I represent Westchester and  
23 Putnam, but Putnam County's drug treatment  
24 court program has been lauded across the

1 state and even somewhat nationally. And I  
2 know while we met often in the Legislature,  
3 we may act in silos and say, This is my  
4 county.

5 It's important to note that many of  
6 the people that benefit from the  
7 Putnam County Drug Treatment Court Program do  
8 not live in Putnam County. I would suggest  
9 potentially even the majority of them may be  
10 from all over the state. Putnam and  
11 Westchester are both part of the federally  
12 designated High-Intensity Drug Trafficking  
13 Area. And in Putnam, unlike many other  
14 counties, we actually take on felonies,  
15 misdemeanors and alcohol-related offenses in  
16 the Drug Treatment Court Program, including  
17 DWIs, which I think is unique. And it's been  
18 largely credited as a success to help give  
19 these people positive pathways to recovery,  
20 even making our roads safer.

21 But I'm concerned about that decrease,  
22 and I'd like to just hear from you, sir, as  
23 to how those state dollars flow through the  
24 9th Judicial District into our local county

1 drug treatment courts.

2 CHIEF ADMIN. JUDGE MARKS: Well, it's  
3 a very important court. We're fully  
4 committed to it. Its operations are  
5 continuing.

6 I wouldn't be overly concerned about  
7 that, that the budget shows a modest reduced  
8 funding. That may be the result of  
9 attrition, it may be a single position will  
10 continue to be vacant under our hiring  
11 freeze. And if that turns out to be a  
12 problem, if that's a critical position in  
13 that court's operations, we will move staff  
14 around to address that.

15 But I would not be overly concerned  
16 about that -- the impact on that court. We  
17 will make every effort to ensure that it  
18 continues to be an effective and productive  
19 court.

20 And if you're hearing anything to the  
21 contrary, you know, please let me know and  
22 we'll address it.

23 ASSEMBLYMAN BYRNE: Thank you, Judge.  
24 I just want to make sure that they get the

1 resources that they need, because the  
2 benefits go way beyond just the people in  
3 Putnam County, even residents from  
4 Connecticut that come by. So I think there  
5 definitely is a state obligation to support  
6 this type of program.

7 And in Putnam County we were blessed  
8 with a judge named James Reitz for many  
9 years, who sadly suffered a heart attack  
10 while he was serving on the bench -- the man  
11 actually got an Emmy for his promotion of the  
12 Drug Treatment Court Program. And it's now  
13 being managed by Judge Joe Spofford. They do  
14 a tremendous job, but I just want to make  
15 sure they get the resources and support they  
16 need.

17 Thank you, Judge.

18 CHIEF ADMIN. JUDGE MARKS: Thank you.

19 CHAIRWOMAN WEINSTEIN: Thank you.

20 We go to the Senate now.

21 CHAIRWOMAN KRUEGER: Yes, thank you.

22 We've been joined by Senator Palumbo  
23 and Senator Todd Kaminsky, and  
24 Senator Palumbo has some questions.

1                   SENATOR PALUMBO: Thank you,  
2 Madam Chairwoman.

3                   Judge Marks, good to see you again.

4                   CHIEF ADMIN. JUDGE MARKS: Good to see  
5 you.

6                   SENATOR PALUMBO: How are you?

7                   And I know I had to run down to the  
8 floor for a little bit, so I'm sorry if I'm a  
9 bit repetitive, but I just have two quick  
10 questions regarding the certification.

11                   Of those 46 judges -- I guess it was  
12 39 Supreme and seven Appellate Division --  
13 were any of those judges removed due to  
14 either mental or physical incapacity?

15                   CHIEF ADMIN. JUDGE MARKS: No.

16                   SENATOR PALUMBO: Okay. And is there  
17 any sort of a process regarding whether or  
18 not that would have been evaluated at all?

19                   CHIEF ADMIN. JUDGE MARKS: Oh,  
20 absolutely. That's required under the  
21 provision in the Constitution.

22                   And under our rules, for a judge to be  
23 certificated, they have to undergo an  
24 independent medical -- physical and mental

1 examination. We contract with physician  
2 firms who conduct those examinations, and  
3 that's a critically important part of the  
4 process.

5 SENATOR PALUMBO: Sure. So none of  
6 those judges failed that aspect of their  
7 recertification.

8 CHIEF ADMIN. JUDGE MARKS: That's  
9 correct. They might not all have completed  
10 the exam at the time that the decision was  
11 made, but I'm not aware that any judge had  
12 failed the independent medical examination.

13 SENATOR PALUMBO: Thank you.

14 And of course in light of the backlog,  
15 they were not removed due to a smaller  
16 caseload -- or I think we can all agree on  
17 that issue as well, correct?

18 CHIEF ADMIN. JUDGE MARKS: No, it was  
19 entirely about the extremely difficult budget  
20 situation.

21 SENATOR PALUMBO: It was purely  
22 financial, I would say, I guess.

23 CHIEF ADMIN. JUDGE MARKS: Correct.

24 SENATOR PALUMBO: Okay. Thank you.

1           And now just to move on to the  
2           evictions. There were some administrative  
3           orders, now we have legislatively allowed  
4           someone to file a document that says that  
5           they've been impacted by COVID or they're  
6           having a tough time obtaining additional or  
7           other means -- or other housing.

8           My question, Your Honor, is in the --  
9           when this expires on May 1st, if there are  
10          additional administrative orders, I had some  
11          real concerns in my district where we had  
12          multi-millionaires from Manhattan living out  
13          on the East End of Long Island and refused in  
14          residential situations to relinquish their  
15          tenancy, indicating that it was because they  
16          didn't feel like going back to New York City.

17          So the real -- my question is, in the  
18          event that there are any further  
19          administrative orders, would you be willing  
20          to consider that it's only upon proof of  
21          COVID, of being impacted by COVID, that these  
22          folks would be able to stay and there would  
23          be a moratorium on those evictions?

24          CHIEF ADMIN. JUDGE MARKS: Well, we

1 did have several -- there were executive  
2 orders issues by the Governor, there were  
3 several administrative orders issued by the  
4 court system, signed by me. And then there's  
5 been at least two pieces of legislation that  
6 were enacted, the most recent one in late  
7 December and then the Safe Harbor Act earlier  
8 in the year.

9 So we -- at this point I don't  
10 anticipate there will be any further  
11 administrative orders. I mean, we're always  
12 concerned about the health and risks of large  
13 numbers of litigants and members of the  
14 public coming into the courthouses during the  
15 pandemic, and that's been an evolving --  
16 obviously an evolving background to all of  
17 this. But at the moment there's very  
18 detailed legislation on the books, we're  
19 complying with it, and at the moment we see  
20 no need for any further administrative  
21 orders.

22 SENATOR PALUMBO: Terrific. Thank  
23 you, Your Honor. I appreciate your time.

24 CHIEF ADMIN. JUDGE MARKS: Thank you.



1 CHAIRWOMAN KRUEGER: Thank you.  
2 Assembly.

3 CHAIRWOMAN WEINSTEIN: We go to  
4 Assemblyman Reilly, three minutes.

5 ASSEMBLYMAN REILLY: Thank you,  
6 Madam Chair. Thank you, Chief Judge Marks.

7 I was actually -- wanted to ask a  
8 question about Mental Health Court here in  
9 Staten Island. Currently for misdemeanor  
10 cases we can't have them referred to  
11 Mental Health Treatment Court. And I was  
12 wondering if there was -- if you could touch  
13 on that, and if there's an ability for us to  
14 open up the opportunity. We can for felony  
15 cases, but at this time I think it would be  
16 great if we could open that up for  
17 misdemeanor cases as well.

18 CHIEF ADMIN. JUDGE MARKS: That's an  
19 interesting question. I'm not aware of that.  
20 That on its face doesn't seem to make sense.  
21 If felony cases are being referred to Mental  
22 Health Court, why not misdemeanors?

23 I will have to take a look at that and  
24 I'll get back to you. But you certainly --

1           you raise a very interesting question.

2                   ASSEMBLYMAN REILLY:   Okay, thank you.

3           I really appreciate that.

4                   And I yield the rest of my time.

5           Thank you.

6                   CHIEF ADMIN. JUDGE MARKS:   Thank you.

7                   CHAIRWOMAN WEINSTEIN:   Great, thank

8           you.   We now go to Assemblywoman McMahan.

9                   ASSEMBLYWOMAN McMAHON:   Thank you,  
10          Madam Chair.

11                   And good morning, Judge Marks.   How  
12          are you?

13                   CHIEF ADMIN. JUDGE MARKS:   Good  
14          morning.

15                   ASSEMBLYWOMAN McMAHON:   I just have a  
16          couple of questions.

17                   Regarding the certification of the  
18          judges over age 70, did I understand your  
19          testimony correctly that the plan is to  
20          follow the normal certification process for  
21          judges who will be turning 70 this coming  
22          year?

23                   CHIEF ADMIN. JUDGE MARKS:   In judges  
24          who will be up for further recertification.

1           That is our hope. You know, there are  
2           too many question marks about the economy,  
3           about our budget, about our operational  
4           needs. But certainly our hope is later this  
5           year that judges will -- the judges who are  
6           up for certification or recertification will  
7           be able to be approved. But I can't predict,  
8           and I certainly can't guarantee that. There  
9           are too many variables.

10           ASSEMBLYWOMAN McMAHON: I understand.

11           And just one other question. Do you  
12           know when the last time assigned-counsel  
13           rates were adjusted in the state?

14           CHIEF ADMIN. JUDGE MARKS: I believe  
15           it was -- I don't know why I remember this,  
16           but I believe it was 2003 enacted by the  
17           Legislature, taking effect in 2004. I could  
18           be off a year.

19           ASSEMBLYWOMAN McMAHON: Has OCA had a  
20           recent examination of those fees to look at  
21           maybe the appropriateness of adjusting them  
22           again?

23           CHIEF ADMIN. JUDGE MARKS: Yeah, they  
24           need to be adjusted. It's been many, many

1 years.

2 We strongly advocated for raising the  
3 assigned-counsel rates, the assigned-counsel  
4 fees. The Chief Judge has been vocal on  
5 this. Obviously at the moment there are, you  
6 know, serious fiscal challenges. But there's  
7 no question, after what I believe is 16,  
8 17 years without an increase, it's time for  
9 an increase. Very important.

10 ASSEMBLYWOMAN McMAHON: Thank you very  
11 much. Appreciate --

12 (Zoom interruption.)

13 CHAIRWOMAN WEINSTEIN: We now go to  
14 Assemblyman Walczyk, three minutes.  
15 Thank you.

16 ASSEMBLYMAN WALCZYK: Your Honor,  
17 thanks so much for the time. Wonderful to  
18 see you.

19 District attorneys have a staggering  
20 backlog of cases in some cases. What is the  
21 Office of Court Administration doing to  
22 ensure that speedy trial or speedy  
23 presentment aren't the reason that these  
24 cases are dismissed at the end of all of

1 this?

2 CHIEF ADMIN. JUDGE MARKS: Well,  
3 we've -- we've -- at the moment, for  
4 pre-indictment of felonies, the Governor's  
5 executive order has suspended the speedy  
6 trial statute, because that's in recognition  
7 of the difficulty of presenting a backlog of  
8 unindicted felonies to grand juries.

9 But what we've done is we brought back  
10 grand juries over the summer -- in July  
11 outside New York City, in August inside  
12 New York City. And since then we've  
13 continued grand juries. Every county in the  
14 state has at least one. Some of the more  
15 populous counties have more than one,  
16 particularly in New York City.

17 So we're trying to facilitate the  
18 easing of the backlogs by providing -- and,  
19 you know, it's very impressive that people  
20 are coming in to serve on grand juries. You  
21 know, we weren't sure if we would get people  
22 to come in and serve, and it's been kind of  
23 remarkable that basically in the very similar  
24 numbers to people in pre-pandemic times,

1 people are coming in and serving on grand  
2 juries. So they're doing their public  
3 service, performing their civic duty.

4 So we also have -- particularly in New  
5 York City, we've made an effort to designate  
6 judges to conference unindicted felony cases  
7 to try to resolve them. And actually  
8 that's -- we started doing that early in the  
9 new year, last month, and there have been  
10 thousands of cases that have been resolved  
11 without the need to present those cases to  
12 the grand jury.

13 So this is going to take a lot of  
14 work, but it's a top priority for us. And,  
15 you know, we'll get through it.

16 ASSEMBLYMAN WALCZYK: Your Honor, one  
17 more.

18 Your weekly address referred to  
19 electronic court systems as evolving into a,  
20 quote, unquote, better normal. I was just  
21 wondering if you could explain to the members  
22 of the various committees that are  
23 represented what you meant by that. And what  
24 health metrics are you following to return to

1 in-person? What can, you know, locals look  
2 to for those metrics in anticipation that  
3 they will return to some of their normal  
4 operations?

5 CHIEF ADMIN. JUDGE MARKS: By the way,  
6 the weekly remarks are from Chief Judge  
7 DiFiore, not from me.

8 But in terms of virtual proceedings,  
9 our view on virtual proceedings -- you know,  
10 we've tracked this very carefully, we've  
11 examined how it's worked. In most instances  
12 it's worked very well. But we're of the  
13 opinion that it's not the answer to all  
14 proceedings. We don't think that, for  
15 example, grand jury proceedings or civil or  
16 criminal jury trial proceedings are ideally  
17 suited for a virtual presentation.

18 But there are many other, particularly  
19 routine proceedings in civil courts where  
20 it's not necessary to drag people into court,  
21 that it's good for the lawyers, it's good for  
22 their clients, it's good for the court  
23 system. It will -- it's more -- it can be  
24 more efficient and it can promote public

1 health and safety.

2 So it -- we're relying heavily on  
3 virtual proceedings now, and they will have  
4 an important role post-pandemic.

5 ASSEMBLYMAN WALCZYK: Thanks for the  
6 time, Your Honor and Chairwoman.

7 CHIEF ADMIN. JUDGE MARKS: Thank you.

8 CHAIRWOMAN WEINSTEIN: Thank you.

9 We now go to Assemblyman Ra for  
10 five minutes, ranker on Ways and Means.

11 ASSEMBLYMAN RA: Thank you, Chair.

12 Thank you, Judge Marks.

13 So I just wanted to go back to -- you  
14 know, obviously there's been plenty said by  
15 my colleagues regarding the recertification  
16 of the judges and, you know, backlogs and all  
17 of that stuff.

18 But just with regard to those  
19 individuals, one of the things that came up  
20 when we had a hearing back in the fall was  
21 about, you know, the implication of not just  
22 not having, you know, the judges to handle  
23 the caseload, but the judges' staff, and, you  
24 know, having those folks that are there that



1 help process cases, help write opinions, help  
2 do all that type of stuff.

3 And I know that, you know, basically  
4 by law judges that are in-office are entitled  
5 to have their staff to help them with their  
6 caseload. So I'm just wondering, what is the  
7 status with regard to that in terms of the  
8 employee head count within the agency? Are  
9 -- is there lacking of staff for judges, you  
10 know, through retirements and that? Or are  
11 they able to hire people so that they have  
12 adequate staffing in each courtroom?

13 CHIEF ADMIN. JUDGE MARKS: The  
14 Supreme Court justices have a -- it's in the  
15 Judiciary Law, they have a statutory  
16 entitlement to two personal appointments, a  
17 law clerk or a secretary. And in some  
18 instances they don't hire a secretary,  
19 they'll hire a junior law clerk, if you will,  
20 someone recently out of law school.

21 So the judges who were not  
22 certificated, the 46, had staff. We  
23 committed to finding positions for that  
24 staff. Some of those people decided to

1 separate from service, retire or find a job  
2 elsewhere. But those who wanted to remain in  
3 the court system we have found jobs for,  
4 mostly with new judges coming in,  
5 particularly new Supreme Court justices  
6 coming in. Although they're entitled to hire  
7 the people they want, we got extensive -- a  
8 tremendous amount of cooperation from  
9 incoming Supreme Court justices to pick up  
10 the staff of the judges who were not  
11 certificated. So in terms of those  
12 employees, they have all been placed.

13 But generally, our staffing levels  
14 elsewhere in the court system -- not the  
15 personal staff of judges, but court officers,  
16 court clerks, court reporters, court  
17 interpreters, back-office staff -- we're down  
18 employees. You know, I tried to address that  
19 in my opening remarks.

20 And, you know, we have a hard hiring  
21 freeze. We're forced to do that to meet the  
22 bottom line. You know, we haven't gotten  
23 significant increases in our budget. Over  
24 the last decade they've been, you know,

1 marginal increases. So staffing was down to  
2 begin with, and the last year has exacerbated  
3 that situation.

4 So, you know, I'm not going to suggest  
5 otherwise to you. It's a real challenge for  
6 us that we're going to have to -- we're going  
7 to have to figure out.

8 ASSEMBLYMAN RA: Okay. Thank you for  
9 that.

10 And the other question, just more  
11 globally in terms of the budget of the  
12 department. You know, there was a comment  
13 from the Budget Director, you know, that they  
14 didn't direct the agency necessarily what to  
15 do with their budget. But obviously there's  
16 a, you know, \$300 million figure out there of  
17 reducing costs.

18 So is that -- can you clarify that?  
19 Was that coming from the administration and  
20 the Department of Budget, or is that an  
21 internal measure to come up with that number  
22 to cut the budget by?

23 CHIEF ADMIN. JUDGE MARKS: No, I'm  
24 glad you asked that. It's an important

1 question.

2 We -- in late April when the Governor  
3 issued and the Budget Director issued their  
4 revised financial plan for the state, how  
5 much revenue the state has and so on and so  
6 forth, in the narrative of the revised budget  
7 plan they urged and assumed that the court  
8 system would reduce its spending by  
9 10 percent.

10 And then they took a second step, they  
11 deducted that amount of money, the 10 percent  
12 from our budget, they deducted that from the  
13 revised financial plan.

14 So, you know, given that, and given  
15 that we always try to act as a responsible  
16 partner in state government, we went ahead  
17 and proceeded to develop a plan to reduce our  
18 spending by 10 percent. And so that's what  
19 we did.

20 ASSEMBLYMAN RA: Thank you,  
21 Judge Marks. Thank you, Chairs.

22 CHIEF ADMIN. JUDGE MARKS: Thank you.

23 CHAIRWOMAN WEINSTEIN: Thank you.

24 We go to Assemblywoman Byrnes.

1                   ASSEMBLYWOMAN BYRNES: Thank you.  
2 Thank you, Madam Chair. And thank you,  
3 Chief Administrative Judge Marks.

4                   My question is based off of what was  
5 just indicated, sir, when you spoke with  
6 Assemblymember Ra. You indicated that every  
7 judge has the right to two personal  
8 appointees. My understanding, though, is  
9 that in -- that there is also a hiring freeze  
10 on law clerks and secretaries to judges. So  
11 my -- again, my understanding is that some  
12 judges are potentially going without  
13 secretaries, without law clerks because what  
14 would normally be their personal appointee  
15 positions are currently not fillable.

16                   So is it accurate to say that judges  
17 do have two appointees?

18                   CHIEF ADMIN. JUDGE MARKS: Let me be  
19 clear about this. The Supreme Court justices  
20 have a legal entitlement to two personal  
21 appointees. The other judges do not.

22                   The practice has been, over the years,  
23 that other judges are entitled to hire one  
24 and in some cases two staff people. And, you

1 know, we've been able to support that in the  
2 budget for years.

3 This year Supreme Court justices,  
4 because there's a statutory entitlement, you  
5 know, they have been able to fill vacancies  
6 and hire their two people -- and have two  
7 people work out of their chambers.

8 With the other judges who do not have  
9 the statutory entitlement to -- for a  
10 personal appointment or personal  
11 appointments, we've said that every judge  
12 needs the assistance of an attorney, that a  
13 judge cannot do his or her job without the  
14 assistance of an attorney. But what we've  
15 tried to do is where judges have a vacancy,  
16 someone has left and they don't have the  
17 assistance of an attorney -- not  
18 Supreme Court justices, but the other types  
19 of judges -- we've tried to get them to hire  
20 someone from within the court system, so that  
21 it's not someone off the street, increasing  
22 our employment level with the cost that that  
23 entails.

24 We've tried to work with them, and

1           it's been very successful, and the judges  
2           deserve credit for this. They understand the  
3           fiscal situation. And I would say  
4           overwhelmingly when a non-Supreme Court  
5           justice --

6                     ASSEMBLYWOMAN BYRNES: Sir, I  
7           apologize. Oh, my God, I've never  
8           interrupted a judge before, but I only have  
9           30 seconds left.

10                    I was the court attorney to an acting  
11           Supreme Court judge. Are the acting Supreme  
12           Court judges who fulfill, in multi-bench  
13           rural areas -- they can't rely on somebody  
14           else to borrow a court attorney or a law  
15           clerk from. You know, are they allowed to  
16           have the two personal appointees? Or even as  
17           acting Supreme Court judges, are they locked  
18           into whatever they're allowed to have in the  
19           hiring freeze?

20                    Thank you, sir.

21                    CHIEF ADMIN. JUDGE MARKS: Again,  
22           they're not legally entitled to that, but  
23           we've said as a policy matter every judge is  
24           entitled at least to the services of an

1 attorney, and we've -- I believe we've done  
2 that and we've felt -- there may be a rare  
3 exception to this, but we've been able to  
4 accommodate every judge in the state to  
5 ensure that they have the assistance of an  
6 attorney.

7 ASSEMBLYWOMAN BYRNES: Thank you, sir.  
8 My apologies for interrupting you.

9 CHIEF ADMIN. JUDGE MARKS: No problem  
10 at all. Thank you.

11 CHAIRWOMAN WEINSTEIN: Thank you.

12 Judge Marks, so I just have a very  
13 brief -- some very brief -- more comments, I  
14 think, than questions.

15 I was very concerned to hear your  
16 response to Senator Hoylman about the cuts to  
17 civil legal services, the 10 percent cut. As  
18 you know, I worked over the years with  
19 Judge Lippman to get us to that 100 million  
20 mark, which today even if things were  
21 perfect, would not be enough funding. And  
22 with increased problems due to the pandemic,  
23 I would assume we've only seen an increase in  
24 need.



1           So at the time you did the  
2           10 percent cut, the Executive was withholding  
3           20 percent from local assistance programs.  
4           Since the Executive's budget has come out,  
5           that has been reduced to just 5 percent of  
6           the local assistance budgets of -- community  
7           budgets. So I was wondering if, in light of  
8           the change in the Executive's position to  
9           just withhold 5 percent, if you would be --  
10          rethink the 10 percent and see what can be  
11          done to restore those -- make sure that those  
12          programs get fully funded.

13                 CHIEF ADMIN. JUDGE MARKS: I can  
14                 commit to you that we will look carefully at  
15                 that. It might require extending our hiring  
16                 freeze longer. That's one of the options.  
17                 We don't have a lot of options. But I  
18                 promise you we will look at that very  
19                 carefully.

20                 CHAIRWOMAN WEINSTEIN: And the  
21                 question, has any -- have any of the stimulus  
22                 pandemic fundings from Washington included --  
23                 any of the federal programs included any  
24                 funds for legal services to assist people in

1 terms of their staving off eviction or  
2 mortgage foreclosure?

3 CHIEF ADMIN. JUDGE MARKS: Not that  
4 I'm aware of. The funding I'm aware of is  
5 for -- are you talking about in the big --  
6 you know, what's described as the  
7 \$1.9 trillion package or the --

8 CHAIRWOMAN WEINSTEIN: Yes. Well,  
9 both the December -- the one passed in  
10 December and the proposed -- I mean, I -- I  
11 should know the answer to the question. I  
12 don't. But why don't we -- why don't we both  
13 examine whether there's any potential for  
14 legal services funding to assist people  
15 impacted by COVID-19.

16 CHIEF ADMIN. JUDGE MARKS: No, we  
17 should do that, I agree.

18 CHAIRWOMAN WEINSTEIN: Thank you,  
19 Judge.

20 Back to the Senate.

21 CHAIRWOMAN KRUEGER: Thank you.

22 Judge, I also don't have any questions  
23 today. I want to thank you for your time  
24 with us and re-emphasize my Senate

1 colleagues' agreement with the Assembly. We  
2 can't afford to cut legal services at this  
3 time. I'm not saying we can afford to cut  
4 anything else in our court system.

5 But I think you have explained fairly  
6 clearly that for the problems you're seeing  
7 you feel like you have your arms around the  
8 criminal justice side of the court system.  
9 Arraignments have continued, courts have  
10 continued, there's been actually a decrease  
11 in the number of arrests coming into the  
12 courts.

13 But we've also talked about at some  
14 point these moratoriums on evictions and  
15 foreclosures and debt and utilities are all  
16 going to come due. And I think it's going to  
17 be an explosion throughout the court system  
18 to try to figure out how you deal with a  
19 volume you've probably never seen before.

20 So I don't want to ask you how you're  
21 going to deal with that volume; I'm going to  
22 say to you, you need every tool in your  
23 arsenal probably to be increased, certainly  
24 not decreased, to try to get through that

1 tsunami when it happens.

2 So again, I will urge you, explore how  
3 you have the resources, how you have your  
4 specialized courts, have your specialized  
5 courtrooms within your specialized courts, if  
6 it's New York City, so that you're up and  
7 ready for more foreclosures when those start  
8 to happen, you're up and ready for the  
9 residential evictions which we hope won't  
10 happen, the commercial evictions, which we  
11 also hope won't happen. But we know it's all  
12 there, it's all building up.

13 With that, we want to thank you very  
14 much for your time and we want to excuse  
15 you -- not that anybody's done with the  
16 courts, but we're done with you here today  
17 with us. So thank you very much for your  
18 time.

19 And I'm going to call up our next  
20 testifier, who is Robert Tembeckjian of the  
21 New York State Commission on Judicial  
22 Conduct.

23 And for people who track these things,  
24 this is also under the rubric of the

1           Judiciary Committee, with Senator Hoylman and  
2           Assemblyman Lavine having 10 minutes, other  
3           relevant chairs and rankers having five  
4           minutes.

5                        So, Robert, are you with us? I think  
6           you're there, but you're muted. Take your  
7           mute button -- oh, there we are.

8                        ADMINISTRATOR TEMBECKJIAN: Gotcha,  
9           okay.

10                      CHAIRWOMAN KRUEGER: Great. So good  
11           morning, or good afternoon, I'm not sure --  
12           oh, still morning.

13                      ADMINISTRATOR TEMBECKJIAN: Still  
14           morning.

15                      CHAIRWOMAN KRUEGER: Still morning.

16                      ADMINISTRATOR TEMBECKJIAN: Which is a  
17           rarity. But thank you very much.

18                      I look forward to seeing many of you  
19           in person when we're allowed to do that  
20           again, and particularly the new Assembly  
21           Judiciary chair, Mr. Lavine. I look forward  
22           to working with you as I have in the past  
23           with Assemblywoman Weinstein and Assemblyman  
24           Dinowitz, your predecessors in that role.

1           As you know, the Commission on  
2           Judicial Conduct is the state agency created  
3           in the Constitution, independent of the court  
4           system, to investigate and, where  
5           appropriate, to discipline judges throughout  
6           the New York State Unified Court System for  
7           misconduct -- ethical misconduct as  
8           promulgated in the rules on judicial conduct.

9           Like all of government and society,  
10          2020 presented some very unique challenges  
11          for us. We are a small agency, and we're  
12          able to adapt rather well to the challenges  
13          presented to us by the coronavirus pandemic.  
14          On a budget of \$6 million a year, we are  
15          responsible for overseeing the ethics  
16          enforcement on nearly 3500 judges throughout  
17          the Unified Court System. And somehow, under  
18          the unique circumstances presented to us this  
19          year, we managed to shift our operations in  
20          early March from in-person to remote and  
21          almost entirely virtual.

22          We instituted video platforms so that  
23          we have been taking depositions and  
24          conducting hearings as well as interviews

1 remotely, by video. We have been  
2 communicating through email and through  
3 electronic use of faxes and the postal system  
4 and, where necessary, private carriers. And  
5 our 11 commission members, who as you know  
6 are appointed by various appointing  
7 authorities -- some by the Governor, some by  
8 the Chief Judge, and some by the leaders of  
9 the State Legislature -- have been conducting  
10 all of our business remotely.

11 And the result was that in 2020, we  
12 publicly disciplined 24 judges throughout  
13 New York State, which is a greater number  
14 than in any year over the past decade. And  
15 we were able to do it by essentially going  
16 into overdrive, as we adapted to the  
17 challenges of switching from in-person to  
18 video.

19 And although I vigorously agree with  
20 those who have presented the view that  
21 in-person proceedings, particularly our due  
22 process and deposition proceedings, are  
23 invaluable and really irreplaceable, under  
24 the unique circumstances presented to us this

1 year we were able to manage.

2 And I suspect that when we do return  
3 to whatever the new normal will be, that  
4 while we expect to return to in-office,  
5 in-person operations to a great extent, we  
6 will probably benefit from having pioneered  
7 this year the uses of technology for remote  
8 proceedings so that, where necessary,  
9 witnesses who are in remote parts of the  
10 state or even in other states, who are  
11 physically challenged, who may be suffering  
12 from some infirmity that makes it difficult  
13 for them to reach one of our offices, we'll  
14 be able to communicate with them as you and I  
15 are communicating now by video.

16 With all of that said, this year,  
17 rather uniquely, I am not asking for more  
18 money than the Governor's Executive Budget is  
19 proposing, which is the same dollar amount  
20 that we had last year.

21 As you know, we've been challenged for  
22 a number of years by the decision in the  
23 Executive Budget to keep the commission's  
24 appropriation flat. And four times in the



1 last 10 years the Legislature has increased  
2 our appropriation, recognizing that the work  
3 we do is essential, it is a constitutional  
4 responsibility and obligation. And to make  
5 up for the fact that our staff has decreased  
6 over the last decade from 51 full-time  
7 employees to 39 -- while our caseload has  
8 increased -- you have come through, time and  
9 again, to supplement what the Executive has  
10 recommended.

11 Because of the special challenges and  
12 strains and stresses on the state's finances  
13 this year because of the coronavirus  
14 pandemic, we submit a budget to you that asks  
15 for the same dollar amount as we had last  
16 year. And in discussing it with the  
17 Governor's representatives, I'm happy to say  
18 that they agreed that that would be  
19 appropriate for us -- with a commitment, to  
20 the greatest extent possible, for us not to  
21 spend all of the money that is appropriated  
22 to us.

23 And as some of you know because I've  
24 sought your help in between these annual

1 events, we sometimes disagree with the  
2 Division of Budget on how our appropriations  
3 should be spent or allocated during the year.  
4 We have sometimes taken the position that  
5 they can implement a cash ceiling on our  
6 budget, as they do with executive agencies  
7 that report to the Governor.

8 But because we do not report to the  
9 Governor, because we are constitutionally  
10 independent, our position has always been  
11 what the Legislature appropriates is what we  
12 spend, responsibly keeping it under the full  
13 figure to do our part, particularly in  
14 stressful times such as these.

15 And I'm pleased to be able to say this  
16 year, at least, that the Executive and the  
17 commission are on the same page, and I  
18 certainly hope that the Legislature would  
19 agree. Not that I would object if you  
20 somehow managed to find additional funding to  
21 provide for us this year so that we can  
22 continue the regeneration of our staff, which  
23 you supported and found the funding for in  
24 previous years.

1           But given the state of affairs that we  
2           all find ourselves in, we are committed to  
3           making do with, again, a flat budget and  
4           having demonstrated our adaptability in this  
5           electronic age to the benefits of IT, we  
6           think we can manage to do it.

7           I certainly hope to stem the tide of  
8           departing staff who we cannot replace, which  
9           typically is the way we save money over the  
10          years -- our expenses go up, our  
11          responsibilities increase as our caseload  
12          increases, and the only real place that we  
13          can find any savings is in not replacing or  
14          in deferring the replacement of staff that  
15          depart. It slows us down, but we do the best  
16          we can.

17          That said, I'm happy to respond to any  
18          questions that you might have, either on our  
19          performance this year, on the funding that  
20          we're requesting, or what we project for the  
21          coming year.

22          CHAIRWOMAN KRUEGER: Thank you. Thank  
23          you very much.

24          I don't see hands, but I'm just going

1 to double-check. Does our chair of Assembly  
2 Judiciary or Senate Judiciary have any  
3 questions?

4 ASSEMBLYMAN LAVINE: Yes, I do.

5 CHAIRWOMAN KRUEGER: Thank you.

6 CHAIRWOMAN WEINSTEIN: Chuck.

7 Mr. Lavine.

8 ASSEMBLYMAN LAVINE: All right,  
9 thanks.

10 Mr. Tembeckjian, good to see you  
11 again, and I look forward to working with  
12 you. I want you to know that I spent  
13 five years as cochair of the New York State  
14 Legislative Ethics Commission, and I also had  
15 so much fun in the five years that I served  
16 as chair of the Assembly Ethics Committee.  
17 So I have some special sense of understanding  
18 about what you do and how critically  
19 important it is.

20 So let me ask you a couple of  
21 questions -- not so much dealing with the  
22 budgetary issue itself, although I hear what  
23 you're saying about your budget -- but a  
24 couple more granular questions.

1           So there is a -- you have -- there are  
2 11 commission members, correct?

3           ADMINISTRATOR TEMBECKJIAN: Yes,  
4 correct.

5           ASSEMBLYMAN LAVINE: Do you need a  
6 majority of those commission members to be  
7 able to institute an investigation?

8           ADMINISTRATOR TEMBECKJIAN: No. There  
9 are certain quorum requirements to impose  
10 discipline: We need the participation of  
11 eight and the concurrence of six, no matter  
12 how many are in the room. To authorize an  
13 investigation, we need the concurrence of a  
14 majority of those who are present for the  
15 meeting and the vote.

16           But I would say that unlike other  
17 entities where the staff has the opportunity  
18 to screen complaints, although we analyze and  
19 summarize all of the complaints that we  
20 receive -- and last year that was 1500, down  
21 a little bit from the previous years, but  
22 with the courts having been closed for much  
23 of the year it's obvious why that number was  
24 down a little bit.

1           But every commission member sees every  
2           complaint that we get, even if it's not  
3           against a judge, even if it's a  
4           non-jurisdictional against a police officer,  
5           a lawyer -- every one of our commission  
6           members see every one of the complaints that  
7           we get, and they all vote on them. They have  
8           the opportunity to hold for full discussion  
9           if they wish, but there is an opportunity for  
10          each of them to see every complaint, and they  
11          all vote on them.

12           So it's fair to say that in my entire  
13          tenure, which is over 40 years at this, every  
14          investigation has had at least a majority of  
15          members voting, whether or not they were all  
16          in the room at the time. Six out of the 11  
17          have authorized everything we do.

18           ASSEMBLYMAN LAVINE: Very good. And  
19          how are investigations initiated? Must they  
20          come through complaints, or do you have the  
21          inherent authority or innate authority to be  
22          able to investigate on your own even about a  
23          complaint?

24           ADMINISTRATOR TEMBECKJIAN: The

1 statute under which we operate, Article 2A of  
2 the Judiciary Law, provides for both. We can  
3 investigate complaints that we receive,  
4 written complaints from anyone, or the  
5 commission has the authority in statute to  
6 initiate an investigation on its own motion.

7 And in fact we do that on any number  
8 of occasions during the year, based on  
9 information that comes to our attention not  
10 through a complainant but through a newspaper  
11 article, through interviews or information  
12 that we come across while we are conducting  
13 ongoing investigations.

14 Sometimes anonymous complaints, where  
15 the individual for whatever reason is  
16 concerned about revealing himself or herself.  
17 If there is sufficiently detailed information  
18 in an anonymous complaint, we will take that  
19 as an opportunity to initiate the  
20 investigation on our own motion.

21 But then again, that must be by a  
22 majority of the 11 commission members. I  
23 don't have the authority to do that on my  
24 own.

1 ASSEMBLYMAN LAVINE: And with respect  
2 to the non-jurisdictional complaints -- that  
3 would be, for example, complaints against law  
4 enforcement officers or complaints against  
5 lawyers --

6 ADMINISTRATOR TEMBECKJIAN: Yes.

7 ASSEMBLYMAN LAVINE: -- what does the  
8 commission do with those complaints?

9 ADMINISTRATOR TEMBECKJIAN: We have  
10 statutory authority to refer them to  
11 appropriate entities or authorities, but we  
12 don't refer them automatically. We will  
13 review each one of them to determine whether  
14 or not there appears to be some merit to the  
15 complaint, at which point we will give it the  
16 imprimatur of the commission and refer it.

17 We do not refer frivolous complaints.  
18 As you might imagine, we do get some of those  
19 every year. And rather than burden some  
20 other entity -- and create a false hope to  
21 the complainant that someone else may be  
22 acting on their frivolous complaint, we will  
23 by majority vote of the commission decide not  
24 to do that, but we in writing explain to



1 every complainant the reasons for our action,  
2 including to those complaints that we choose  
3 not to refer by indicating that it didn't  
4 really involve misconduct against a judge and  
5 there didn't seem to be a legitimate basis  
6 for us to refer it elsewhere, but they  
7 certainly could if they wished.

8 ASSEMBLYMAN LAVINE: And you mentioned  
9 you now have 39 employees, you're down from  
10 51 not too terribly long ago. Is that  
11 39 employees total? Does that include  
12 lawyers, investigators, plus clerical staff?

13 ADMINISTRATOR TEMBECKJIAN: Yes,  
14 that's everything. That's our entire -- our  
15 entire staff is 39 full-time employees, and  
16 we have two part-time staff who are retirees  
17 that we asked to -- if they could manage to  
18 give us two days a week to help us through  
19 some of the difficulties created by our staff  
20 having been reduced, essentially by  
21 24 percent over a decade. Which is a pretty  
22 big hit.

23 And it's why, in previous years, I've  
24 asked the Legislature to supplement the

1 budget request that the Executive has put in  
2 for us.

3 As you know, because we're not an  
4 executive agency and because there would be a  
5 tremendous conflict for the court system to  
6 control our budget, our budget is submitted  
7 to the Legislature in the Executive Budget.  
8 But unlike, you know, the typical agency  
9 head, if I disagree with the Executive  
10 recommendation, I can come and tell you that,  
11 and my reasons for it, without fear of having  
12 no job when I get back to the office.

13 (Laughter.)

14 ASSEMBLYMAN LAVINE: Mr. Tembeckjian,  
15 it's been a pleasure speaking with you. I'm  
16 looking forward to working with you. And  
17 thank you. And please thank the members of  
18 the commission as well for working so hard to  
19 guarantee -- well I should say work toward,  
20 would be a better way to say it, the  
21 integrity of our judiciary system. Thanks so  
22 much.

23 ADMINISTRATOR TEMBECKJIAN: Thank you  
24 very much.

1                   ASSEMBLYMAN LAVINE: I yield whatever  
2 time I have left.

3                   CHAIRWOMAN KRUEGER: Thank you.

4                   On behalf of myself and the Senate, I  
5 also want to thank you for the work of your  
6 commission. You know, I'm not an attorney,  
7 but I've been here in the Legislature now --  
8 this is my 19th year, and it is so obvious to  
9 me that democracies cannot stand if people  
10 lose faith in their judicial system. You  
11 know, you have mistakes that happen up here  
12 with the Legislature and with local  
13 governments and with individual situations,  
14 and most of the time you figure it out  
15 without attempting coups on the U.S. Capitol.  
16 Most of the time.

17                   But if people don't believe that  
18 they're going to get, quote, unquote, a fair  
19 shake from judges in our court system, then  
20 almost anything we try to do here, or pass  
21 laws that make sense, you know, cannot work.

22                   So you know that I have been a fan of  
23 your office and have tried to ensure that we  
24 do get you some more funding and get the

1 money released for you. My question, because  
2 it's another issue that I don't think we ever  
3 get to in this state -- again, like I said,  
4 I'm not a lawyer -- I am astounded we have  
5 judges who are not lawyers. Is that a higher  
6 percentage of complaints that you see, a  
7 disproportionate number of complaints that  
8 come from courts where the actual judges have  
9 no law school training?

10 ADMINISTRATOR TEMBECKJIAN: Certainly  
11 the percentage of public disciplines that we  
12 have imposed over the years has been higher  
13 for the town and village courts than the  
14 full-time courts. And within the town and  
15 village courts, which are the only ones that  
16 can be presided over by a nonlawyer, the vast  
17 majority of those disciplines have involved  
18 individuals who are not lawyers.

19 They make up about 60 percent of the  
20 overall judiciary, but they constitute  
21 70 percent of our disciplines overall.  
22 That's about 890 public disciplines over the  
23 last 40 years. It's not to say that there is  
24 misconduct that a nonlawyer judge can commit

1           that a lawyer judge can't commit, but the  
2           numbers certainly do bear out your  
3           impression, Senator Krueger, that the  
4           majority of disciplines involves the  
5           part-time town and village courts, the large  
6           majority of those comprised of individuals  
7           who are not attorneys.

8                         CHAIRWOMAN KRUEGER: Well, thank you  
9           for confirming what I feared was the  
10          storyline.

11                        So to be more controversial, because a  
12          lot of people in the Legislature don't -- or  
13          haven't been thrilled with the idea of a  
14          parallel type of commission for district  
15          attorneys, although we did pass one, get it  
16          into law, then it blew up in our faces with a  
17          court case. Do you think that a commission  
18          like yours can work for overseeing and  
19          ensuring the legitimacy of the decisions made  
20          by DAs around the state?

21                        Is there a reason we should look at  
22          you as a model for them? Because if we're  
23          going to do something, apparently we have to  
24          go back to square one.

1           ADMINISTRATOR TEMBECKJIAN: Well, I do  
2 think that the commission is a model for  
3 ethics reform at all levels of state  
4 government. And as you and I have discussed  
5 individually, the Judicial Conduct Commission  
6 is the model for a very interesting and I  
7 think meritorious constitutional amendment  
8 for redesigning JCOPE and applying our model  
9 to the executive and legislative branches.

10           Whether or not individually  
11 identifying one category of public official,  
12 such as district attorneys, makes sense is --  
13 I think it's a legislative issue, and it's as  
14 much a political question as it is an ethics  
15 question. If the Legislature were to decide  
16 that such an entity would be appropriate, as  
17 you did previously by legislation, I would  
18 recommend that the approach be via  
19 constitutional amendment, as you've already  
20 considered for the executive and the  
21 legislative branches.

22           There is a mechanism within the  
23 existing grievance committees which are  
24 supervised by the appellate divisions, to

1 discipline attorneys, including district  
2 attorneys. But having decided as a public  
3 policy matter that it was a good thing, I  
4 would recommend us as the constitutional  
5 model as opposed to the legislative model.

6 CHAIRWOMAN KRUEGER: Okay. That will  
7 take me another 18 years, but thank you for  
8 that.

9 (Laughter.)

10 CHAIRWOMAN KRUEGER: I have a series  
11 of constitutional amendments that  
12 unfortunately don't seem to be going anyplace  
13 too fast. But I appreciate that.

14 Assembly, do you have any other  
15 questions? Because we have one more Senator  
16 who does.

17 CHAIRWOMAN WEINSTEIN: We do not have  
18 anyone.

19 CHAIRWOMAN KRUEGER: All right, then  
20 I'm going to call on our Judiciary chair,  
21 Brad Hoylman, who just rejoined us from  
22 another event.

23 SENATOR HOYLMAN: Hi. Nice to see you  
24 again.

1 ADMINISTRATOR TEMBECKJIAN: Nice to  
2 see you too.

3 SENATOR HOYLMAN: I'm glad we were  
4 able to successfully fight for your funding  
5 that you requested, and I appreciate how it's  
6 been utilized since then.

7 Are there any trend lines that you see  
8 in the cases you've been handling that  
9 require any legislative action on our part?

10 ADMINISTRATOR TEMBECKJIAN: I don't  
11 think so. I'm happy to say that the  
12 incidence of inappropriate demeanor appeared  
13 to be diminishing, which suggests to me that  
14 judges over time have become more sensitive  
15 to even the appearance of probity while on  
16 the bench.

17 I also think that after 40 years of  
18 vigorous enforcement by the commission, there  
19 has been a salutary effect on the judiciary  
20 overall. We are invited now annually to make  
21 presentations to newly appointed and newly  
22 elected judges. Various judicial  
23 associations invite us to give annual  
24 presentations to their events. And I think



1           that overall we're seeing that there is a  
2           greater appreciation and sensitivity by the  
3           judiciary to its ethical obligations.

4                         And I certainly wouldn't want to  
5           suggest that because we had 24 public  
6           disciplines this year that we are overseeing  
7           a judiciary run amok -- quite the contrary.  
8           Our experience is that the vast majority of  
9           complaints that we receive are not  
10          substantiated, that the judiciary is  
11          comprised, generally speaking, of individuals  
12          who are highly capable, competent, dedicated  
13          and increasingly sensitive to their ethical  
14          obligations.

15                        So I don't think so. There is a bill  
16          that Assemblyman Steck has introduced, which  
17          he has periodically, about mandating  
18          punishment for those judges who are  
19          exceedingly tardy in deciding pending  
20          matters. But we have demonstrated -- there  
21          is a rule, an existing rule, that requires  
22          judges to dispose of the business of the  
23          courts efficiently as well as fairly, and we  
24          have disciplined judges publicly for delays

1 in failing to decide cases on a timely basis.  
2 And that's the only legislative issue that  
3 I'm aware of at the moment that would  
4 directly --

5 SENATOR HOYLMAN: Thank you.

6 ADMINISTRATOR TEMBECKJIAN: -- act  
7 upon us.

8 SENATOR HOYLMAN: Thank you.

9 With the additional 300,000 that we  
10 were able to secure for the commission, how  
11 many additional cases have you been able to  
12 resolve due to that funding?

13 ADMINISTRATOR TEMBECKJIAN: Well, our  
14 pending cases at year-end actually declined  
15 by 23 percent. We went from 231 pending two  
16 years ago to 177 now.

17 Part of that is because even with a  
18 diminishing staff we had fewer incoming  
19 complaints this year, so that we were able to  
20 devote our existing resources a little more  
21 effectively toward pending matters.

22 But there's no question that the  
23 300,000 from two years ago really was a major  
24 boost to us. And it permitted, among other

1 things, for us to be positioned to have the  
2 physical resources -- the computers, the IT  
3 network and so forth -- that enabled us to  
4 adapt to an all-remote and electronic model  
5 in March once the coronavirus pandemic  
6 really hit.

7 SENATOR HOYLMAN: Has it resulted in  
8 additional staff? Would you say that it's  
9 improved the quality of investigations and  
10 hearings?

11 ADMINISTRATOR TEMBECKJIAN: We  
12 certainly -- we certainly have been able to  
13 conduct more thorough investigations. The  
14 overall impact on staff, however, has not  
15 been realized. We're still at our lowest  
16 staffing point in 15 years. We dropped from  
17 51 to 39 full-time employees. And as I  
18 mentioned to Chairman Lavine, I was able,  
19 fortunately, to persuade two of our retirees  
20 to give us two days a week so that we can  
21 have the benefit of their experience and  
22 participation in our matters.

23 But we are still terribly  
24 understaffed. Had -- had our budget

1 maintained the standard 2 percent annual  
2 growth over the last 10, 15 years, our budget  
3 today would be 6.7 million. But it's 6  
4 million, almost even -- 6,029,000.

5 SENATOR HOYLMAN: So I -- just to be  
6 clear, the additional money that we secured  
7 has gone into equipment and other types of  
8 support, not staffing.

9 ADMINISTRATOR TEMBECKJIAN: Yes,  
10 mandated -- mandated financial obligations  
11 that increased every year. Raises for the  
12 existing staff that we -- that we still have,  
13 the increased costs of doing business,  
14 increased rent and so forth.

15 That 300,000, as you recall, was  
16 intended as the first of a two-year bump to  
17 get us -- our staffing levels back up as  
18 well, but when the coronavirus hit last year  
19 we were forced to live with the flat  
20 \$6 million recommendation, which we're  
21 proposing to do again this year.

22 But the consequences of living on the  
23 same dollar amount year after year is  
24 essentially regressive financing, because our

1 costs go up and in order to meet those rising  
2 costs with the same dollar amount, we have to  
3 cut something. And although we did have  
4 41 full-time staff at the start of the last  
5 fiscal year, the two who departed for other  
6 jobs we did not replace because we just -- we  
7 just were too tight financially.

8 That would not have been the case if  
9 the second year of your two-year program had  
10 gone into effect. We'd have more staff now  
11 than we do.

12 SENATOR HOYLMAN: And will you be able  
13 to hire more staff moving forward, or are you  
14 still in a triage mode?

15 ADMINISTRATOR TEMBECKJIAN: No, not  
16 this year. Not with another year of flat  
17 budgeting.

18 It is my hope that if any one of our  
19 39 existing full-time employees leaves, that  
20 we'll be able to replace them, but we won't  
21 really be able to tell until we see the  
22 overall effect of this flat budget for yet  
23 another year, as we progress. I'm hoping  
24 that we stay at 39. We do not anticipate

1 increasing unless you somehow miraculously  
2 find some extra money to give us. And as I  
3 said just before you rejoined, although we're  
4 asking out of a sense of civic responsibility  
5 and duty for the same dollar amount this year  
6 as last year, I certainly wouldn't object if  
7 you managed to find some more for us.

8 SENATOR HOYLMAN: Thank you.

9 Thank you, Madam Chair.

10 ADMINISTRATOR TEMBECKJIAN: Thank you.

11 CHAIRWOMAN KRUEGER: Thank you.

12 Any other Assemblymembers' light on,  
13 Helene?

14 CHAIRWOMAN WEINSTEIN: No, we have no  
15 members.

16 CHAIRWOMAN KRUEGER: All right. Then  
17 I want to thank you very much for being with  
18 us today --

19 ADMINISTRATOR TEMBECKJIAN: Thank you,  
20 as always.

21 CHAIRWOMAN KRUEGER: -- I want to  
22 dismiss you to continue to work, and I want  
23 to call up William Leahy, New York State  
24 Office of Indigent Legal Services, and remind

1           legislators that for this guest,  
2           Jamaal Bailey and Jeff Dinowitz are the two  
3           chairs of committees for the first  
4           opportunities to question after testimony.

5                     Good afternoon.

6                     DIRECTOR LEAHY: Good afternoon,  
7           Chair. How are you?

8                     CHAIRWOMAN KRUEGER: I am fine, I am  
9           fine. How are you doing?

10                    DIRECTOR LEAHY: I'm doing well. And  
11           thank you for the invitation and the  
12           advantageous placement.

13                    CHAIRWOMAN KRUEGER: Well, we're just  
14           screaming through this hearing -- okay,  
15           that's a lie. It is 12:30 and you are number  
16           three of I think 31 today.

17                    DIRECTOR LEAHY: Well, I want to speak  
18           to you, if I may, and your cochair and the  
19           chairs of the relevant committees, of course,  
20           and the other members -- essentially it's a  
21           tale of two constitutional responsibilities.  
22           And there's one tremendous success story for  
23           which we thank everyone far and wide, and  
24           then there's one of seriously

1           unconstitutional stature and crying out for  
2           attention.

3                       So of course I speak of the public  
4           criminal defense reforms that go back to the  
5           Kaye Commission and the creation of my office  
6           in 2010 and the settlement of the  
7           Hurrell-Harring lawsuit and then the  
8           enactment of Executive Law 832(4) in 2017 to  
9           extend the benefits of that settlement to the  
10          entire state. That is going very, very well.  
11          And it's going well because it is supported  
12          at all levels of government and throughout  
13          the legal community. The Governor has lived  
14          up to his commitment, including in the  
15          Executive Budget that you're reviewing now.  
16          We support that request. That's the fourth  
17          year of the planned five-year journey  
18          accounted for in the state's long-range  
19          fiscal plan to put the state for the very  
20          first time in a state of constitutional  
21          compliance with respect to its Gideon  
22          obligation. And of course that's shorthand  
23          for its Sixth Amendment responsibility to  
24          provide the effective assistance of counsel.



1           That's going well I think because our  
2 office is functioning well. We -- even in a  
3 year in which we've had to shift from a lot  
4 of in-person meetings to a lot of remote  
5 meetings, we are continuing to work very  
6 effectively with each and every county and  
7 New York City. We have the support of a  
8 tremendous board, which supports us every  
9 step of the way. We've had support from the  
10 Governor, the Legislature, the 140 or 150 or  
11 so providers of mandated representation all  
12 throughout the state, all the counties, the  
13 State Bar, NYSAC, the Chief Defenders  
14 Association, the State Defenders Association.  
15 All of these entities are vital partners, and  
16 it's going very well.

17           And I'll cite you quickly to the  
18 bullets that we put in on page 3 of our  
19 written testimony and the -- we selected four  
20 of the many reports we have filed over the  
21 years. And Footnotes 2 and 3, with respect  
22 to the five counties under the lawsuit  
23 settlement, which is still extant -- we still  
24 meet every other month with the parties, the

1 Governor's counsel and the plaintiffs'  
2 counsel in the Hurrell-Harring lawsuit and in  
3 the statewide effort, where we are, as I say,  
4 entering Year 4 of the five years to get us  
5 to a state of constitutional compliance.

6 There are a few things that we need in  
7 order to sustain that progress. We are -- as  
8 is everyone -- under the state hiring freeze.  
9 We need specifically right now our two data  
10 officers that we've been waiting on since  
11 last March. We need NYSDA to be funded,  
12 because NYSDA provides the training and the  
13 computer backup, the data backup and the  
14 advice and support for lawyers. And I know  
15 that Susan Bryant will be speaking much later  
16 to you, and we support her testimony.

17 And we also need, with respect to the  
18 Article VII issue about the so-called virtual  
19 arraignment bill, we need no backing down  
20 from the requirement of in-person  
21 representation at arraignment, which is a  
22 core component of the Hurrell-Harring  
23 settlement and a core component of Executive  
24 Law 832(4).

1           Now, that's the good side of the  
2 ledger. I want to hold up for you and see if  
3 I can -- yeah, it can be seen. The Chief  
4 Judge's Commission on Parental Legal  
5 Representation Report in 2019 set out a  
6 blueprint for parental representation reform  
7 in New York. And parental representation is  
8 every bit as required under the state law and  
9 the State Constitution as criminal defense  
10 representation is. It simply has not, to  
11 date, accumulated sufficient political and  
12 fiscal support.

13           We are doing -- and I cite you to  
14 Appendix B at the end of our written  
15 testimony -- we're doing a lot. We have  
16 already acted on the commission's  
17 recommendation to expand the eligibility for  
18 counsel standards to Family Court. That was  
19 approved by our board in December, we're  
20 finalizing the actual document. It will  
21 probably be out within a week or so.

22           We are taking to our board at the  
23 April meeting, in compliance with the  
24 commission's recommendation, caseload

1 standards. Now, those will have to be  
2 subject to state funding, of course, because  
3 when you reduce caseloads and you provide  
4 lawyers with appropriate caseloads, it's a  
5 significant fiscal lift. And so those  
6 caseload standards, we will ask them not to  
7 be self-executing but to be contingent on  
8 available state funding.

9 In terms of what you ask for at a time  
10 of crisis, I guess I want to say that you  
11 can't waste a crisis. Nor can the state wait  
12 any longer to fix the unconstitutional state  
13 of affairs with respect to parental  
14 representation. We have to get started, and  
15 we have to get started now.

16 And of course our request, our ask, if  
17 you will, is for the \$5 million in aid to  
18 localities. We spoke with you all about it  
19 last year, and it's certainly a high agency  
20 priority. It is our fundamental priority  
21 this year.

22 But we also ask you, outside the  
23 budget, and as the legislative session goes  
24 along, take a very serious look at the

1 parental commission's recommendations. It's  
2 not rocket science. Control caseloads,  
3 provide appropriate state funding, provide  
4 appropriate state guidance and  
5 infrastructure. Do exactly what we are doing  
6 on the criminal defense side. We know how to  
7 do it, we have done it, we are doing it.

8 And so let's get started. That's my  
9 plea on parental representation, and let's  
10 not wait any longer.

11 So that's my opening statement, and  
12 I'm happy and eager, in fact, to have a  
13 conversation and answer questions.

14 CHAIRWOMAN KRUEGER: Senator Brad  
15 Hoylman, chair of -- oh, you know what,  
16 wrong. Excuse me, Senator Hoylman.

17 It's actually Senator Jamaal Bailey,  
18 as the chair of Codes.

19 SENATOR BAILEY: Thank you,  
20 Madam Chair. And Director Leahy, Bill, good  
21 to e-see you today.

22 DIRECTOR LEAHY: Good to see you.

23 SENATOR BAILEY: As you often do with  
24 this testimony -- and your testimony

1 generally answers questions that I was going  
2 to ask. Right? You always do a good job of  
3 that every year.

4 But I guess I just wanted to double  
5 down and also share my agreement with you  
6 about the Article VII as related to the  
7 arraignments and how it would negatively  
8 affect the work that you've been trying to do  
9 as related to the Hurrell-Harring settlement.  
10 And I just wanted to give you an opportunity  
11 to expound upon that if you wanted to.

12 DIRECTOR LEAHY: Sure. You have my  
13 video, so you can see I'm a man of a certain  
14 age today. But way back in the day, you  
15 know, I was a public defender in the trenches  
16 in and around Boston, and I can tell you  
17 there is no more meaningful stage of a  
18 criminal proceeding than the arraignment when  
19 the public defender, who no client has ever  
20 chosen, goes into the dock, talks to a  
21 complete stranger, is a complete stranger and  
22 goes out to appear before a judge to plead  
23 for that client's release.

24 And so, you know, virtual appearances

1 in the cause of court efficiency are a  
2 wonderful thing for unnecessary, unessential  
3 appearances. They should have no application  
4 to the arraignment. The work of a public  
5 defender, the work to build the trust of the  
6 client, the work to begin the process of  
7 having confidential communication really be  
8 meaningful communication, it starts there.  
9 It can't be done remotely. It has to be done  
10 in-person, person to person. That's from  
11 personal experience. And I was very  
12 gratified, during Judge Marks' testimony, at  
13 the number of members, Assemblypeople and  
14 Senators, who spoke to that.

15 So -- and it's embedded in the  
16 settlement and in the law. So we'd be  
17 rolling back -- at a time when we're talking  
18 about greater protection for minority  
19 defendants and people in minority communities  
20 and poor people, to tear away the ability to  
21 have a personal connection with your lawyer  
22 at arraignment? It's unthinkable. And it --  
23 and there's nothing wrong, you know, with  
24 extending the 25 counties to the whole state:

1           Just take arraignments out of it. Take  
2           arraignments out of it.

3                     And I commend to all of you the  
4           written testimony and the future oral  
5           testimony of Susan Bryant and Laurette Mulry  
6           representing NYSDA and the Chief Defenders.  
7           They'll be up much later, and they'll be  
8           speaking to this. I read their statements,  
9           and they're excellent.

10                    Also, we have a statement -- I think  
11           we've sent it to you already, Senator, but  
12           I'll share it with all of the members -- back  
13           on December 2nd, our notification about  
14           virtual arraignments. Because we've been  
15           hearing the drumbeat for a while: Gee,  
16           that's so convenient, it's so easy, it works  
17           so well for everybody. It doesn't work for  
18           due process, it doesn't work for effectuating  
19           the right to counsel, it cannot happen with  
20           respect to arraignments.

21                    SENATOR BAILEY: Again -- thank you  
22           for that. And again, I echo those same  
23           sentiments.

24                    You were speaking about, I guess, the



1 rates for assigned counsel. And I know that  
2 we are in a fiscal crisis like we've never  
3 seen before as result of this pandemic that  
4 we've never seen before. But I just wanted  
5 you to touch on the importance of the  
6 increase of the rates despite us not having  
7 -- you know, where we may not have the fiscal  
8 wherewithal to do it right now.

9 DIRECTOR LEAHY: Yeah, you know, it's  
10 interesting Judge Marks mentioned 2003-2004.  
11 The very same year, 2004, back in  
12 Massachusetts, my agency sued the state  
13 because counsel rates hadn't been raised in  
14 about 20 years. And we won a constitutional  
15 decision. I was lead counsel on the case;  
16 I've shared that with some of the people  
17 here.

18 And so last year we worked with the  
19 association that was seeking the increased  
20 rates, and we were pairing it -- it is one of  
21 the six recommendations of the Commission on  
22 Parental Legal Representation. And as Judge  
23 Marks said, the Chief Judge has been out  
24 front about this. Because sooner or later,

1 lawyers just aren't going to be coming into  
2 court at these rates because they're not  
3 going to be able to make even a minimal  
4 living on it.

5 So absolutely, it's -- there's a  
6 reason why it's in there as one of the six  
7 recommendations of the Commission on Parental  
8 Legal Representation, and it's something that  
9 is a component of a constitutional, as  
10 opposed to an unconstitutional system of  
11 providing mandated representation.

12 SENATOR BAILEY: Certainly. And I  
13 guess the final question or the statement I  
14 would have about parental representation --  
15 and we've spoken about this at length with  
16 you as well as my former dean, Angela Burton.

17 I guess the question is like yes, this  
18 is the -- obviously especially in times like  
19 these when people that can ill afford to  
20 not -- who cannot afford to have inadequate  
21 representation, however inartful that sounded  
22 as I stated it -- we need to make sure that  
23 there's some sort of oversight.

24 And I look forward to working with you

1           so that we can have these -- so we can do  
2           something like along the lines of what you  
3           said. If we have statewide representation  
4           defense-wise, we should be having it on a  
5           parental level. And if you can, I guess,  
6           expound upon that as my final question and  
7           statement.

8                     DIRECTOR LEAHY: Absolutely. And the  
9           issues, you know, are exactly identical. I  
10          made reference earlier to how the criminal  
11          justice system has its largest impact on poor  
12          and minority communities. It is certainly  
13          exactly the same reality with respect to the  
14          child welfare system.

15                    And so it's really, you know, not  
16          simply a matter of constitutional law or  
17          noncompliance with statutory law, it's just  
18          plain socially destructive not to have  
19          effective representation in that arena where  
20          families are torn apart and decisions are  
21          made about, you know, whether the parent and  
22          the child stayed together.

23                    So -- and so the thing it takes, and  
24          what we've learned from the criminal defense

1 reforms, yes, it takes a lot of money, it's  
2 true. But it takes more. It takes two more  
3 things.

4 It takes an expertise from a state  
5 entity, so that you don't have, like, you  
6 know, let's say a wealthy county which  
7 provides good representation and poorer  
8 counties that do not.

9 And the second thing it needs is the  
10 spirit of collaboration and cooperation,  
11 which I like to think has been a hallmark of  
12 our agency, and certainly should be under --  
13 whether it would be ILS or whether it would  
14 be a new state agency. I know the commission  
15 presented both alternatives. That would be a  
16 legislative decision and a gubernatorial  
17 decision.

18 But we certainly have a very strong  
19 interest in parental representation, as I  
20 think our actions have shown, and we'd love  
21 the opportunity to engage in discussions,  
22 both pre-budget and post-budget, with the  
23 Legislature about how to get that fixed.

24 SENATOR BAILEY: Yeah, I would

1 certainly agree with you that we need --

2 DIRECTOR LEAHY: And I'm not ignoring  
3 the Executive here. I talk to the Executive  
4 all the time, and they know how we feel about  
5 that as well.

6 SENATOR BAILEY: Sure. And I would  
7 certainly echo the sentiments that we need  
8 some sort of uniformity in ensuring that  
9 all -- everyone, from downstate to upstate  
10 and everywhere in between, has adequate  
11 representation, especially at a critical age.  
12 Especially when we are seeing on the news the  
13 younger people are being criminalized, the  
14 younger people -- and it's important to  
15 ensure that there is representation. And not  
16 just representation, there are ways for  
17 diversion at that age.

18 So I will yield the rest of my time,  
19 Director Leahy. And again, as always, I  
20 thank you for your work and for your  
21 testimony.

22 DIRECTOR LEAHY: Thank you, Senator.

23 CHAIRWOMAN KRUEGER: Thank you.

24 Assembly.

1                   CHAIRWOMAN WEINSTEIN: We go to our  
2 Codes chair, Assemblyman Dinowitz.

3                   ASSEMBLYMAN DINOWITZ: Good -- not  
4 morning, good afternoon. How are you?

5                   DIRECTOR LEAHY: Good afternoon,  
6 Chair.

7                   ASSEMBLYMAN DINOWITZ: So I'm glad the  
8 issue of virtual arraignments was raised. I  
9 have concerns, a number of my colleagues have  
10 concerns as well. And I think it's good that  
11 we can do some things virtually, save time,  
12 save travel, save money. But we do have a  
13 tremendous concern on that issue.

14                   And I think as we get more and more  
15 used to doing things like we are today, it  
16 becomes easier to do other things the same  
17 way, virtually, and I'm afraid ultimately  
18 that is going to infringe upon the rights of  
19 a lot of people. So it's really a big  
20 concern, and I think we have to address it.  
21 I think we have to look at that in terms of  
22 the proposal by the Governor on virtual  
23 arraignments.

24                   But I wanted to ask you about

1 immigration proceedings. There's a huge need  
2 for representation in immigration  
3 proceedings, especially when we're dealing  
4 with possible deportation. Can you describe  
5 how your office has been involved in  
6 establishing and improving representation in  
7 immigration-related proceedings for persons  
8 who are unable to afford counsel? Which I  
9 imagine is a very significant percentage of  
10 the people involved in such proceedings.

11 DIRECTOR LEAHY: Yes. Of course.

12 For starters, you know, at the moment  
13 there is not a mandated statutory or  
14 constitutional right to representation in  
15 these hearings. I know New York has done a  
16 lot to provide representation through grants  
17 administered, I think, through the Department  
18 of State.

19 But what our role in that is we -- we  
20 are very proud that under our office, and  
21 with the support of the Legislature, we have  
22 got the first -- we are the -- New York is  
23 the first state, I believe still the only  
24 state that has a statewide network of

1 regional immigration assistance centers. And  
2 what those centers do, under grants that we  
3 administer, is they ensure that every lawyer  
4 representing every client in the state --  
5 publicly funded lawyer in the State of  
6 New York -- is providing proper advice with  
7 respect to the immigration consequences of  
8 criminal and Family Court proceedings.

9 We've just entered into our second  
10 three-year set of contracts. We've got six  
11 offices all around the state. They have a  
12 network, they work with one another on  
13 listservs.

14 And so while we don't provide or don't  
15 fund direct representation, we do fund  
16 support that makes sure that lawyers aren't  
17 inadvertently making mistakes that disserve  
18 their clients' interest with respect to  
19 immigration consequences.

20 If I could go back to your first  
21 reference to virtual arraignments also,  
22 Chair, there's -- because it reminded me that  
23 there is a -- there is a measure that really  
24 should be undertaken, and that is the



1 existing statute that provides for  
2 centralized arraignments. One of the big  
3 problems in upstate New York, as we all know,  
4 is the distance, the sheer number of courts  
5 and the distance, the physical distance  
6 between courts.

7 And a number of counties, under the  
8 legislation that was put into place about  
9 four or five years ago -- that OCA, with the  
10 support of the counties, with the support of  
11 my office, have been creating these  
12 centralized arraignments. And you heard  
13 Judge Marks talk about, you know, no one  
14 should wait more than 24 hours. Well, the  
15 way these courts are operating, no one waits  
16 more than 12 hours, because they have a  
17 morning session and an evening session. I  
18 think there are about 15 to 20 counties now  
19 that already have these courts up and  
20 running.

21 There would have been more but for the  
22 pandemic. A lot of plans got waylaid and  
23 delayed.

24 So that's really the way to go in

1 terms of the future of arraignments in the  
2 State of New York. They shouldn't be all  
3 over 12 or 1300 village courts all over, you  
4 know, on every highway and byway. They  
5 should be in these centralized arraignment  
6 settings, and they should be in person, with  
7 in-person representation. That's the  
8 ultimate solution.

9 ASSEMBLYMAN DINOWITZ: As a result of  
10 the pandemic, I believe there must be a huge  
11 backlog everywhere on everything. Could you  
12 just give your feeling on how we can sort of  
13 dig out from all of that and how long it  
14 might take?

15 DIRECTOR LEAHY: Well, we -- yes. We  
16 stayed true -- and I have to repeat my credit  
17 to the Executive and to the Governor for  
18 staying true in this budget. We stayed true  
19 to the long-term goal. Because should this  
20 funding continue to flow as it has continued  
21 to flow, we know that we will be able to  
22 assist the providers and the counties in  
23 weathering all the storms.

24 And you're right, there is going to be

1 a backflow of -- particularly in the upstate,  
2 the town or village courts. A lot of them  
3 closed down for a very long time, some of  
4 them still. Some of them reopening and then  
5 reclosing again. And the discovery. Not  
6 much attention has been paid today to the  
7 impact of the defense of the discovery. The  
8 district attorney has the responsibility to  
9 assemble the data; it's voluminous -- videos,  
10 you know, videocams and everything. But then  
11 the defense gets it and they have to analyze  
12 it all. So a tremendous additional burden,  
13 both in technology and in attorney and staff  
14 time.

15 And as long as we stay true to the  
16 reforms that have been already put into  
17 statute and have already been funded,  
18 consistently, year to year -- including  
19 during this pandemic -- we will stay on  
20 course and we will be able to continue to  
21 make the public defense system in New York  
22 something to be proud of instead of something  
23 to be embarrassed about, as it was for so  
24 long.

1 ASSEMBLYMAN DINOWITZ: Okay, thank you  
2 very much. That's all I have.

3 DIRECTOR LEAHY: Thank you.

4 CHAIRWOMAN KRUEGER: Thank you.

5 Any other members have --

6 CHAIRWOMAN WEINSTEIN: No Assembly.

7 CHAIRWOMAN KRUEGER: All right. Then  
8 we're going to thank Mr. Leahy for being here  
9 with us today, and we are going to move along  
10 to Patrick Murphy, New York State Division of  
11 Homeland Security and Emergency Services.

12 And the two lead questioners will be  
13 Senator Brooks and Assemblymember Zebrowski.

14 Good afternoon.

15 DHSES COMMISSIONER MURPHY: Good  
16 afternoon. So jump right in?

17 CHAIRWOMAN KRUEGER: Please. Yes,  
18 please.

19 DHSES COMMISSIONER MURPHY: All right.  
20 So really brief opening comments here on the  
21 front side.

22 But first of all, good afternoon to  
23 everyone. Thanks, Chairwoman Krueger,  
24 Chairwoman Weinstein, and the distinguished

1 members of the joint committee.

2 I'm Pat Murphy, commissioner of  
3 Homeland Security and Emergency Services.  
4 I'm proud to share what the agency has been  
5 working on and will provide an overview of  
6 the Executive Budget as it relates to this  
7 work that's been done.

8 The staff at the Division of Homeland  
9 Security and Emergency Services have worked  
10 tirelessly over the past year to not only  
11 fulfill our day-to-day responsibilities but  
12 also assist the state's COVID-19 response and  
13 recovery efforts.

14 The Executive Budget provides the  
15 resources the division needs to accomplish  
16 our mission and enhance public safety,  
17 including the addition of COVID-related  
18 operations.

19 The total agency appropriation in the  
20 Executive Budget is 4.97 billion, which  
21 includes a 3.4 billion increase from last  
22 year. This increase reflects additional  
23 appropriation authority to allow the division  
24 to administer federal aid to state agencies,

1 local and county governments and eligible  
2 non-profit organizations.

3 This federal aid is available as a  
4 result of the Governor's March 2020 request  
5 for the first-ever Major Disaster Declaration  
6 for a public health emergency, which was  
7 promptly granted by the federal government.  
8 This declaration allowed for the construction  
9 of alternative care facilities, including the  
10 Javits Medical Center, and provides  
11 reimbursement for many of the state's  
12 response operations, including COVID testing  
13 and vaccination sites.

14 The division partnered closely with  
15 the Division of Budget and continues to work  
16 with our federal partners to ensure New York  
17 receives reimbursement for all eligible  
18 activities.

19 Throughout the Governor's response to  
20 the pandemic, the division has helped  
21 coordinate efforts to address numerous  
22 challenges presented by the public health  
23 crisis. The state's Emergency Operation  
24 Center has been activated since last February

1 to support the state's response and recovery  
2 efforts. The division staff supported the  
3 state's COVID testing and mass vaccination  
4 sites, serving in leadership, safety, and  
5 logistics roles.

6 Additionally, division staff work with  
7 our partners in the National Guard and have  
8 undertaken the task of procuring and  
9 assembling test kits, which in turn have been  
10 distributed to state test sites, local  
11 governments and school districts. The  
12 division also works with the National Guard  
13 to oversee the logistics for the receipt,  
14 storage and distribution of personal  
15 protective equipment and other resources  
16 needed to combat the pandemic.

17 Furthermore, division staff assisted  
18 other agencies to perform critical response  
19 functions, including the New York State  
20 Department of Labor's unemployment insurance  
21 mission, the Department of Health's call  
22 center mission and, most recently, the  
23 vaccination hotline. I'm proud of this  
24 service and would like to note over 90

1 percent of the division's staff were directly  
2 engaged in COVID missions.

3 The division's Office of Fire  
4 Prevention and Control was integral to the  
5 state's COVID response efforts. Office of  
6 Fire Prevention and Control staff have served  
7 at field hospitals, state testing and  
8 vaccination sites, as well as in the State  
9 Liquor Authority's safety missions and the  
10 Department of Health's pilot project for the  
11 Bills -- opening the Bills game to  
12 spectators. The Office of Fire Prevention  
13 and Control ensured the state's new efforts  
14 were not only efficient, but also safe for  
15 all involved.

16 While COVID has been the main focus of  
17 the division over this past year, we  
18 continued to execute our core missions, as  
19 discussed in our more thorough submitted  
20 testimony. It is not possible to cover all  
21 the great work the division has done during  
22 my testimony, but I appreciate the  
23 opportunity to appear before you today to  
24 further discuss the agency's efforts to



1 maintain daily operations while serving the  
2 state's COVID-19 response.

3 I look forward to the continued  
4 partnership with you and others, and hope to  
5 answer any questions you have. And I do  
6 appreciate being with you today.

7 Thank you.

8 CHAIRWOMAN KRUEGER: Thank you very  
9 much. And you did it in five minutes, so you  
10 get extra points from us today also. Thank  
11 you very much, Commissioner.

12 DHSES COMMISSIONER MURPHY: All right,  
13 thank you.

14 CHAIRWOMAN KRUEGER: The first  
15 questioner I believe will be Senator John  
16 Brooks. Are you here, John?

17 THE MODERATOR: I'm asking him to  
18 unmute.

19 SENATOR BROOKS: We were having some  
20 trouble getting -- the video's not on, but  
21 with the --

22 CHAIRWOMAN KRUEGER: Very good.

23 SENATOR BROOKS: Thank you, Chairman,  
24 and good afternoon, Commissioner.

1           DHSES COMMISSIONER MURPHY: Hi,  
2           Senator.

3           SENATOR BROOKS: Hope it's quiet, not  
4           much to do.

5           (Laughter.)

6           SENATOR BROOKS: I'll tell you.

7           I got a couple of questions. Some of  
8           the questions from a homeland security issue  
9           I'm going to save for our briefing when we do  
10          that so that we can get a little more deeper  
11          discussion.

12          DHSES COMMISSIONER MURPHY: Sure.

13          SENATOR BROOKS: Obviously this past  
14          year -- I mean, every playing field you're  
15          on, something was happening. And I think you  
16          did a great job. But I'm curious to  
17          understand how much assistance did you get or  
18          how much interference did you get from the  
19          federal government as the pandemic was  
20          beginning to take shape?

21          And to my understanding in the past,  
22          the management of PPE and other things has  
23          always been done more through the federal  
24          government. So the fact that suddenly you

1 had to secure all of this equipment -- how  
2 much assistance did you get from the federal  
3 government, how much direction did you get  
4 from the federal government?

5 DHSES COMMISSIONER MURPHY: Right. So  
6 I think, to begin with, FEMA and the pieces  
7 of the federal government that we've worked  
8 with -- Health & Human Services, along with  
9 CDC -- have been pretty good partners for us  
10 at our level in terms of providing additional  
11 guidance where needed, and then also some  
12 resourcing that was limited on the front  
13 side.

14 I think because New York was kind of  
15 at the epicenter on the beginning of the  
16 pandemic, we received additional resources  
17 that other states may not have. We pressed  
18 hard to get resources that became very  
19 limited quickly, and then transitioned fairly  
20 fast over to procuring what we could because  
21 of the intensity of the infections and the  
22 rise in infections that we had over time.

23 So we did not have all the resources  
24 that we really wanted on the -- in the early

1 days of this, back in February and March,  
2 April of last year, but quickly found ways to  
3 start to increase those supplies. But by no  
4 means were we able to provide our partners at  
5 the county level and municipality level the  
6 resources that they would have liked to have  
7 from the front.

8 But now we're in much better shape  
9 today.

10 SENATOR BROOKS: Okay, that is good to  
11 hear. And certainly as additional vaccines  
12 are -- come into play, that's an assist too.  
13 But of course we are seeing the virus move in  
14 a number of directions, so there's a lot  
15 there.

16 You know, as -- and last year we had a  
17 presidential campaign where there was a great  
18 deal of concern on what was happening in the  
19 internet and cyber-related issues. Can you  
20 give us your impression of where we are right  
21 now as a state, how secure are we? And did  
22 you see any activity on the internet that was  
23 directed towards our state?

24 DHSES COMMISSIONER MURPHY: So if --

1           you're asking specifically towards the  
2           election, sir? Or ransomware that is being  
3           initiated across a larger audience? Was it  
4           specifically to the election?

5                     SENATOR BROOKS: The election and as  
6           we led up to the events in January that the  
7           Congress is meeting on now. How aware were  
8           you of activity that involved citizens of  
9           this state?

10                    DHSES COMMISSIONER MURPHY: So to the  
11           extent of knowing individuals or others that  
12           would have caused harm or damage to our  
13           systems or to other infrastructure, not  
14           specific to the individuals.

15                    To the more overall perspective on  
16           where we were with elections and election  
17           security, there was a full-out state effort,  
18           multiple agencies aligned with the Board of  
19           Elections and ITS, our team, our cyber team  
20           involved in that as well, monitoring systems.  
21           And from our perspective, at no time was the  
22           state in jeopardy from having a fair and full  
23           election.

24                    The activities that followed that

1 later, even, in D.C., the law enforcement  
2 agencies that we work with, that we  
3 collaborate with, were very swift in action  
4 where they had known targets and took action  
5 on those.

6 And so I feel fairly comfortable at  
7 this point where we are with the knowledge of  
8 those who would cause us harm and the action  
9 taken.

10 SENATOR BROOKS: Okay, good.

11 I think some of that stuff when we get  
12 together, maybe we want to talk a little bit  
13 more about what you think might need to be  
14 done yet and, you know, where we stand in  
15 terms of, you know, what's coming from the  
16 homeland as opposed to overseas.

17 With regards to the pandemic, from  
18 three rows back, would it be fair to say that  
19 the national leadership actually was coming  
20 from New York State as this rolled out, under  
21 the direction of how this pandemic was being  
22 responded to and mitigated in terms of masks  
23 and social distancing? We were at the front  
24 end, driving that bus, as opposed to getting

1 direction from Washington?

2 DHSES COMMISSIONER MURPHY: I would  
3 say yes to your question, sir. And really in  
4 terms of -- as I talk to my counterparts  
5 around the country, having a position that's  
6 uniformly applied across areas where it's  
7 needed was a benefit to -- and an envied  
8 position by many of those that I work with in  
9 other states. Clear guidance, decisions,  
10 timely decisions are important in trying to  
11 manage the pandemic.

12 And I think to your point, yes, I  
13 think the state showed very well, as we look  
14 at -- in comparison to others.

15 SENATOR BROOKS: With the change of  
16 administration, is the communications you  
17 receive now, and the direction, better than  
18 it was before?

19 DHSES COMMISSIONER MURPHY: Well, I  
20 think -- you know, what I would say is that  
21 most of my communications are at the FEMA  
22 level, the FEMA administrator at the time and  
23 the current acting administrator in Region 2.  
24 For -- in my lane, I would say that our

1           communications were good across the board.  
2           The ability to respond to our requests I  
3           think maybe were a little more restricted at  
4           one point, but the communications were open  
5           -- the administrator, Pete Gaynor, was -- had  
6           no problem calling me and I had no problem  
7           calling him in terms of resourcing or  
8           discussing the state's needs.

9                         SENATOR BROOKS: Okay, good.

10                        Just one last question. I know from  
11           my background, obviously we develop a lot of  
12           plans for different events, from hurricanes  
13           to the rest. I'll assume that we had a  
14           pandemic plan in place. How dramatically did  
15           you have to change that?

16                        DHSES COMMISSIONER MURPHY: Well,  
17           there was a plan in place. And much of that  
18           revolved around county activity and support  
19           from communities to be able to execute on the  
20           plan.

21                        The plan was not necessarily resourced  
22           at the local level to the degree that it  
23           could have been. We know that given the  
24           magnitude of the event that we went through,



1 the federal government wasn't prepared to be  
2 able to support us as well, to the degree  
3 that we needed that support.

4 So did -- to -- did we have to deviate  
5 from the plan? Absolutely. Nobody  
6 envisioned, when we wrote that plan, that  
7 every corner of the state would be affected  
8 to the degree it is. And over a period of  
9 time, as it's rolled out, to literally a year  
10 ago when we stood up the Operations Center.

11 SENATOR BROOKS: Thank you. I just --  
12 I want to congratulate you for what you and  
13 your people did. It was almost an impossible  
14 situation. And as much as people could have  
15 envisioned what a pandemic was going to do,  
16 this one was way beyond anybody's practical  
17 thinking.

18 So I think you've done a great job. I  
19 look forward to meeting with you next month  
20 on some of the other issues. But I just want  
21 to say thank you very much. And I got done  
22 early this time, so I yield my seven seconds  
23 back. Thank you.

24 CHAIRWOMAN KRUEGER: Thank you.

1                   DHSES COMMISSIONER MURPHY: Thank you,  
2                   Senator Brooks. Thanks for your partnership  
3                   all the time.

4                   CHAIRWOMAN KRUEGER: Thank you.  
5                   Assemblymember?

6                   CHAIRWOMAN WEINSTEIN: Yes.  
7                   Assemblyman Zebrowski is debating a bill, so  
8                   we'll go to Assemblyman Byrne first, three  
9                   minutes. Thank you.

10                  ASSEMBLYMAN BYRNE: Mr. Commissioner,  
11                  I've just got to --

12                  DHSES COMMISSIONER MURPHY: Hello,  
13                  sir.

14                  ASSEMBLYMAN BYRNE: I am dealing with  
15                  two different laptops, for session and for  
16                  this budget hearing.

17                  So thank you, appreciate your time and  
18                  your testimony.

19                  I really have just one specific  
20                  question. A couple of years ago, actually,  
21                  my Senator that represents portions of Putnam  
22                  and Westchester and I wrote to the Governor's  
23                  office about the Securing Communities Against  
24                  Hate Crimes Grant Program. We were

1           advocating that it could be expanded. It was  
2           particularly for houses of worship, in light  
3           of what we've seen across the country and the  
4           globe, but also right here in New York to  
5           some extent.

6                     And I was encouraged that -- I think  
7           it was last year or the year prior, there was  
8           an expansion not only with increased funding,  
9           but it also added eligibility for nonprofit  
10          community centers.

11                    And I was just looking for some  
12          clarification as to would that include houses  
13          of worship. And is that something that the  
14          state and the agency are looking to make sure  
15          is a part of that program?

16                    DHSES COMMISSIONER MURPHY: So the  
17          answer is -- the easy answer to your question  
18          is so that the aperture has opened up so that  
19          there are other applicants that can apply for  
20          those grants.

21                    With that open aperture, there were  
22          literally, in the last round of applications,  
23          over double the number that applied. We were  
24          over 350 applications that we continue to

1 sort through and look at the needs. And so  
2 it's -- we adhere to whatever the legislation  
3 is that provides that funding, and we  
4 continue to move out on it.

5 So I think your advocacy has expanded  
6 that eligible pool, and I think we're in a  
7 good place right now.

8 ASSEMBLYMAN BYRNE: Thank you. I  
9 bring that up because I know there's been  
10 --in the past I've had many conversations  
11 with some of the local temples in my  
12 district, mainly in Putnam County. And  
13 Westchester and New York City are able to  
14 access some federal funds and support, but  
15 Putnam was ineligible because the proximity  
16 to the urban community wasn't close enough.

17 However, some of the information that  
18 was missed in the federal program was many of  
19 the members of their congregation were from  
20 Westchester, they just happened to be located  
21 in Putnam.

22 So the state program offered them an  
23 alternative mechanism to try to get support  
24 and funding for things like cameras when

1           there's been a rise of, you know, antisemitic  
2           graffiti or there's accusations. So I wanted  
3           to make sure that houses of worship were  
4           included and continue to be viewed.

5                        So thank you, Mr. Commissioner. I  
6           appreciate your time and your testimony this  
7           afternoon.

8                        DHSES COMMISSIONER MURPHY: Thank you,  
9           sir.

10                       CHAIRWOMAN WEINSTEIN: Thank you.

11                       Back to the Senate.

12                       CHAIRWOMAN KRUEGER: Thank you.

13                       Our next questioner will be Senator  
14           Todd Kaminsky.

15                       SENATOR KAMINSKY: Thank you so much.  
16           Good afternoon, Commissioner. Thank you,  
17           Senator Krueger.

18                       DHSES COMMISSIONER MURPHY:  
19           (Inaudible.)

20                       SENATOR KAMINSKY: Commissioner, with  
21           respect to cybersecurity and preventing  
22           problems, so far in my district alone I've  
23           had a Rockville Centre School District being  
24           taken ransom, where payment had to be made

1 for data recovery, and then the City of Long  
 2 Beach just had a hacking incident where,  
 3 thank God, there was no ransom, but their  
 4 systems were taken down for over a week. You  
 5 couldn't even call into City Hall.

6 And my question is, is New York going  
 7 to have some overall, over-arching vision as  
 8 to how to deal with cybersecurity on a local  
 9 level? Is there some audit being done of our  
 10 local municipalities or villages or schools?  
 11 Are there tools to give them resources to  
 12 help them beef up?

13 You know, normally when the state  
 14 wants to undertake an initiative, let's say  
 15 making its electric fleet -- its buses become  
 16 electric, it will put money up for studies,  
 17 it will award you incentives if you do well.  
 18 ITM ) 18 an over-arching program to help our  
 19 local institutions, especially ( ) those that are  
 20 in control of large amounts of money,  
 21 protected from cyber hacking?

22 DHSES COMMISSIONER MURPHY: So  
 23 currently we have a number of thingTM ) that  
 24 we're doing wi( ) the area, wr ther ibe in

1 school districts or in communities or even  
2 those that touch the state network, to be  
3 able to secure our own -- our infrastructure.

4 With those things come a number of  
5 opportunities. We do assessments. With the  
6 limited staff that we have, we're not able to  
7 get to 3,000 different districts, but we are  
8 able to work with those that have needs. We  
9 do education. In your district, I believe --  
10 and through some of your advocacy we've  
11 reached out to a number of organizations and  
12 provided assistance in the way of best  
13 practices, how to go about securing the  
14 network using other partners, that type of  
15 thing.

16 So that assistance and advice have  
17 been the keys to the work that we've done.  
18 We have started to move towards and used some  
19 federal dollars as well to be able to do some  
20 cyber grants as we move forward. In the  
21 school districts, we still rely heavily on  
22 State Education to manage that piece of it.  
23 But when it comes to the local  
24 municipalities, even nonprofits that you

1 would work with that, if requested, we would  
2 be able to reach out to them and support them  
3 as well.

4 SENATOR KAMINSKY: All right, thanks,  
5 Commissioner. Let me just get one question  
6 in before I go. And I'd love to continue to  
7 work with you to beef that up.

8 But on the Securing Communities  
9 Against Hate, hoping you could expand it for  
10 cyber as well. We had a private religious  
11 institution hacked, awful antisemitic stuff  
12 on there. They would love to take some of  
13 that funding and, instead of putting physical  
14 gates or cameras in some cases, be able to  
15 put in some cyber solutions as well, but  
16 right now that's ineligible.

17 DHSES COMMISSIONER MURPHY: Yeah. And  
18 so just a quick answer to your question, sir,  
19 would be as -- whatever the legislation is  
20 that guides those hate crime grants, we will  
21 follow that. And if it designates monies for  
22 cyber, then we would be more than happy to  
23 work with those institutions to do that.

24 SENATOR KAMINSKY: All right, I will



1 get to working on that.

2 Thank you, Senator Krueger.

3 CHAIRWOMAN KRUEGER: Thank you.

4 Assembly.

5 CHAIRWOMAN WEINSTEIN: Yes, we go to  
6 Assemblyman Walczyk, three minutes.

7 ASSEMBLYMAN WALCZYK: Commissioner,  
8 thanks so much for taking the time.

9 DHSES COMMISSIONER MURPHY:

10 (Inaudible.)

11 ASSEMBLYMAN WALCZYK: Wonderful to see  
12 you once again.

13 DHSES COMMISSIONER MURPHY: Yes, sir.

14 ASSEMBLYMAN WALCZYK: Obviously a lot  
15 of the questions in this hearing for you so  
16 far today have been fixed on the pandemic,  
17 and I feel like our executive branch's nose  
18 sometimes is just fixed solely on the  
19 COVID-19 pandemic. You said 90 percent of  
20 your staff has been fully dedicated to this.

21 That's a little bit of a concern to  
22 me. I know that that's a huge focus right  
23 now and a public health concern moving  
24 forward, but there's other things going on as

1 well. So I'm just going to -- this question  
2 is big, very important to me, should be  
3 important to everyone globally and also  
4 especially to everyone in this -- in these  
5 two legislative bodies.

6 Back in 2013 there was a train  
7 derailment in Quebec. That resulted in an  
8 executive order by this Governor in 2014 that  
9 directed your department to prepare for train  
10 derailments, work with locals on emergency  
11 preparedness, and get ready for what we knew  
12 was going to be more oil carried by rail  
13 freight coming out of, you know, the upper  
14 United States and especially out of Canada.

15 Now that we see the XL Pipeline has  
16 been cancelled by the federal government, we  
17 anticipate that more oil once again will be  
18 pushed onto freight rail, onto ships that go  
19 through the St. Lawrence Seaway and other  
20 areas, and possibly even -- hearing from some  
21 Canadians -- onto trucks.

22 So I was just wondering if you -- does  
23 this budget provide for any additional funds  
24 for you to be able to deal with that possible

1 future disaster, and can you talk a little  
2 bit about what your department is doing and  
3 will do to get prepared for that?

4 DHSES COMMISSIONER MURPHY: So I think  
5 the first thing is, you know, in our  
6 responsibilities as it relates to  
7 hazardous -- {Zoom interruption} -- hazardous  
8 material handling and response to, we  
9 continue to work with our partners with the  
10 Office of Fire Prevention and Control and  
11 Emergency Management staff to best address  
12 the needs of the local governments, the  
13 counties where these trains and hazardous  
14 material would be shipped through.

15 And so we put in place things like  
16 firefighting equipment that would be used in  
17 a hazardous material handling situation.  
18 We've continued to do training -- not as much  
19 in-person right now because of the pandemic,  
20 but we'll get back to it -- to address that.

21 But the specifics of our involvement  
22 beyond that, other than in consultation with  
23 the communities and those that are making  
24 decisions is pretty much limited to that at

1 this point.

2 ASSEMBLYMAN WALCZYK: Commissioner,  
3 are there adequate resources for your  
4 department in this budget to be able to  
5 handle an oil spill on the St. Lawrence  
6 River, for example?

7 DHSES COMMISSIONER MURPHY: Okay, so  
8 the oil spill itself, where we would respond  
9 -- we are not responsible for the oil spill  
10 piece of that. That would be Environmental  
11 Conservation and the other partners that  
12 would actually respond to the spill itself.

13 So we will organize agencies to be  
14 able to apply to it. That is our mission.  
15 But I would defer to those that actually have  
16 responsibility.

17 ASSEMBLYMAN WALCZYK: Thanks,  
18 Commissioner.

19 DHSES COMMISSIONER MURPHY: Thank you,  
20 sir.

21 CHAIRWOMAN WEINSTEIN: Thank you.  
22 To the Senate.

23 CHAIRWOMAN KRUEGER: Thank you.  
24 Next, Senator Diane Savino.

1                   SENATOR SAVINO: Thank you,  
2                   Senator Krueger.

3                   Commissioner, it's good to see you  
4                   again.

5                   DHSES COMMISSIONER MURPHY: Thank you.

6                   SENATOR SAVINO: I want to go back to  
7                   the thread that Senator Kaminsky started, but  
8                   actually broaden it out a little.

9                   You know, as you know, under your  
10                  portfolio -- in your portfolio is the issue  
11                  of cybersecurity. And quite honestly, I  
12                  don't think that you have enough authority  
13                  across the state. We have seen because so  
14                  much of cybersecurity issues are dealt with  
15                  at the local level by local governments,  
16                  we're seeing breaches everywhere.

17                  Just last week the Albany County  
18                  District Attorney announced that many of the  
19                  cases that are pending before him may have to  
20                  be dismissed because of a hack in the Albany  
21                  County DA's office. That threatens criminal  
22                  justice investigations.

23                  Yesterday the New York Times reported  
24                  an incredibly dangerous situation in Florida

1           where hackers were able to access a water  
2           treatment plant and potentially poison the  
3           water down there.

4                        So we're seeing all of these things  
5           happening in other states, in our counties,  
6           in our school districts, in our healthcare  
7           centers, and one of the big threads along  
8           there is we allow localities -- towns and  
9           villages -- to deal with the purchase of  
10          software and handle their own cybersecurity  
11          purchases on their own.

12                       I think, and you and I have had this  
13          conversation, this is the opposite way to go,  
14          particularly in this time. So I would say  
15          that we need to now open up this conversation  
16          about right-sizing the way this state  
17          addresses issues of cybersecurity and  
18          technology purchases and not allow localities  
19          to handle this, but to allow it to be driven  
20          from the state down, because the risks are  
21          far too high.

22                       Would you agree with that?

23                       DHSES COMMISSIONER MURPHY: So one of  
24          the things that we've talked about -- and

1           thanks for continuing the conversation, I  
2           know you're passionate about this -- is that  
3           to be able to -- in contracts, for example,  
4           to be able to dictate in a contract that  
5           would be worked either through Office of  
6           General Services or some other mechanism that  
7           required some level of cybersecurity or the  
8           awareness or implementation of those kinds of  
9           efforts, would be something that we would  
10          advocate for, to be able to do it at a more  
11          broad level.

12                     I think providing guidance, as we have  
13                     for other things that is more directive in  
14                     nature, is okay, but I will leave that up to  
15                     the legislators --

16                     SENATOR SAVINO: Not to interrupt you,  
17                     but guidance doesn't seem to be working,  
18                     because I think the problem is the localities  
19                     are forced to make decisions based upon  
20                     financial reasons, as opposed to the best  
21                     practices.

22                     And I think it's time for the  
23                     Legislature to kind of get involved in this  
24                     and -- because the risks are far too high.

1           Whether it's ransomware attacks on school  
2           districts, whether it's, you know, invading  
3           the district attorney's office and  
4           threatening the people's justice, or  
5           potentially poisoning our water supply -- or  
6           our election systems -- we can no longer  
7           stand by and allow towns and villages to  
8           purchase equipment at the lowest responsible  
9           bidder because that's what the law requires  
10          them to do, potentially creating all sorts of  
11          risks to the population.

12                         So thank you for the work you're  
13          doing, and I look forward to working with you  
14          in the future on this.

15                         DHSES COMMISSIONER MURPHY: Thanks for  
16          your partnership, Senator.

17                         SENATOR SAVINO: Thank you.

18                         CHAIRWOMAN KRUEGER: Thank you.  
19          Assembly.

20                         CHAIRWOMAN WEINSTEIN: We go to  
21          Assemblyman Reilly.

22                         ASSEMBLYMAN REILLY: Thank you,  
23          Madam Chair.

24                         Good afternoon, Commissioner.



1                   DHSES COMMISSIONER MURPHY: Hello,  
2                   sir.

3                   ASSEMBLYMAN REILLY: {Inaudible.}

4                   Great to see you again.

5                   I have a couple of questions, too  
6                   time-consuming for me.

7                   In the Executive proposal there's a  
8                   decrease of \$600,000 to the Red Cross for  
9                   their response preparedness. Do -- is -- do  
10                  you think that will have a negative impact on  
11                  being able to get volunteers for our blood  
12                  supply? Because just recently I know that  
13                  there was a push, especially in downstate, if  
14                  you could touch on that.

15                  DHSES COMMISSIONER MURPHY: Sure.

16                  And so, you know, at our agency we  
17                  just had the Red Cross in drawing blood here  
18                  about two weeks ago. And I was able to  
19                  provide a donation myself.

20                  So -- but to get to the point about  
21                  the money to begin with, the Executive Budget  
22                  this year is exactly the same as it was last  
23                  year, and the add-on dollars that you see  
24                  that look different were the add-on dollars

1 from the Legislature to increase that number.  
2 And so the Executive Budget itself, in the  
3 going-in position, is exactly what it was a  
4 year ago.

5 To your point about will it affect the  
6 Red Cross's ability to draw blood, get  
7 critical services, Red Cross does a great  
8 job. And they are our absolute partners. We  
9 keep a liaison in our Operations Center with  
10 us routinely because of their partnership.  
11 And I think it's the best thing for New York  
12 to have a strong Red Cross in our camp.

13 ASSEMBLYMAN REILLY: Okay. The second  
14 question I had is in relation to the  
15 Interoperable Communications Program. Can  
16 you tell me what that money is going to fund?  
17 If you can just give us just a brief  
18 overview, and maybe just one specific program  
19 that you might know of.

20 DHSES COMMISSIONER MURPHY: So it  
21 really works with a couple of different  
22 areas.

23 First of all, upgrades to radios and  
24 communication networks. Our goal is to more

1 regionalize that effort so that we have  
2 interoperability across regions of the state.  
3 I think we've made great strides in the  
4 activity up to this point.

5 But it could be radio upgrades, it  
6 could be system upgrades, it can be towers  
7 that are needed in certain areas depending on  
8 how that county or region has applied for  
9 those grants. But those are the big things  
10 right now.

11 ASSEMBLYMAN REILLY: Commissioner,  
12 I've only got 10 seconds left, but I just  
13 wanted to ask, is there any exclusions in  
14 regards to applying for the grant, in the  
15 population, that would prohibit maybe  
16 New York City from obtaining those grant  
17 funds?

18 DHSES COMMISSIONER MURPHY: So we  
19 focus on -- we focus on those that have the  
20 least amount of funding to begin with, or the  
21 more challenged funding areas. And that's  
22 why we see primarily those grant dollars  
23 going up in Central New York or up in  
24 St. Lawrence Country, in those areas.

1                   But it's not specifically excluding  
2 anybody, it's really based on the resources  
3 available. Yes, sir.

4                   ASSEMBLYMAN REILLY: Thank you. Thank  
5 you, Madam Chairs.

6                   CHAIRWOMAN KRUEGER: Thank you.

7                   Okay, I have a couple of brief  
8 questions for you, Commissioner.

9                   DHSES COMMISSIONER MURPHY: Yes,  
10 ma'am.

11                   CHAIRWOMAN KRUEGER: Thank you.

12                   So it was asked before, but I'm a  
13 little confused. So the Governor put another  
14 \$4 billion of federal money into homeland  
15 security. That's from the December money  
16 from the federal government, is that correct,  
17 or is that from earlier money?

18                   DHSES COMMISSIONER MURPHY: No, so --  
19 so what I was trying to represent, and maybe  
20 I just didn't state it very well, was that we  
21 now have the appropriations authority so that  
22 as we receive the federal dollars for the --  
23 for reimbursement for funding to the  
24 localities to be able to execute under this

1 pandemic -- so we have that expanded  
2 authority to receive and distribute those  
3 dollars, is really where we're at with that.

4 CHAIRWOMAN KRUEGER: So when the  
5 Governor makes his speeches and talks about  
6 \$6 billion from the feds would be the worst,  
7 \$15 billion from the feds would be the best,  
8 he means then \$4 billion of it will be  
9 sitting in your department if he gets it.

10 DHSES COMMISSIONER MURPHY: So I can't  
11 -- I don't -- I'm not familiar enough with  
12 the request from the Governor. I know the  
13 numbers, because I've heard them. But really  
14 what we're looking at is are those projects  
15 that the municipalities or the jurisdictions  
16 will apply for those grant dollars, the  
17 federal government will come in and reimburse  
18 for those activities. It could be -- you  
19 know, if it's vaccines, for example, and it's  
20 100 percent reimbursable for those expenses  
21 associated with the vaccine, well, that money  
22 would be pulled into that account and then  
23 redistributed. And that's what that  
24 authority is.

1           CHAIRWOMAN KRUEGER: So you do have a  
2 master list of what kinds of things this  
3 money could be spent on?

4           DHSES COMMISSIONER MURPHY: So  
5 whatever the eligible criteria is for those  
6 as -- is right. I'm -- if I understand your  
7 question right, we think that that number  
8 gives us the latitude to work within the  
9 disasters that we currently have for New  
10 York.

11          CHAIRWOMAN KRUEGER: I think my  
12 confusion is we in the Legislature tend to  
13 think of Aid to Localities as a category of  
14 budget spending that actually isn't related  
15 to emergencies. It's how we pay for all  
16 kinds of things in our counties and towns and  
17 cities. So it's a little confusing to see \$4  
18 billion of what we think of as oh, yeah, we  
19 do owe our Aid to Localities a lot of money.

20                 But that's not what this would be  
21 about. This is --

22          DHSES COMMISSIONER MURPHY: No.

23          CHAIRWOMAN KRUEGER: -- new categories  
24 that fit into approved federal activities.

1                   DHSES COMMISSIONER MURPHY: Correct.  
2                   So it's -- it's monies that would be  
3                   associated with the pandemic. Or it could be  
4                   associated with the Halloween flooding in  
5                   Herkimer County where we had that disaster  
6                   that was declared. Or Isaias, where we had  
7                   the strong winds and we had another federally  
8                   declared disaster. As part of that, those  
9                   funding -- that funding stream would come in  
10                  so that it would be redistributed.

11                  CHAIRWOMAN KRUEGER: Okay. All right,  
12                  I'm going to go further into it, but not with  
13                  you today. Thank you very much.

14                  My second question, I believe the new  
15                  head of the Defense Department at the  
16                  Pentagon announced his concern that there  
17                  were active-duty military personnel and  
18                  others in law enforcement who participated in  
19                  the January 6th situation at the federal  
20                  level.

21                  And I am wondering whether we in  
22                  New York State are doing anything -- he  
23                  talked about a new system of training,  
24                  educating and sorting through whether we do

1           have white supremacists or home-grown  
2           terrorists in our own systems of security.  
3           And I'm wondering whether you are looking at  
4           that and thinking through do we need to do  
5           something parallel here in New York State.

6                     DHSES COMMISSIONER MURPHY:   So we  
7           continue to look at -- whether they wear a  
8           uniform or not -- working with our law  
9           enforcement partners and the counterterrorism  
10          zones as well as the New York Intel Center,  
11          and identifying those that would surface as  
12          either a white supremacist or nefarious  
13          actors in some way.  Again, whether they wear  
14          a uniform or not.

15                    I'm not able to speak to the -- what  
16          General Shields would be working on with the  
17          National Guard; at this point I'm two years  
18          removed from that.  If they've got a program  
19          that's coming through the Department of  
20          Defense to do screening or other assessments,  
21          I'm just not able to speak to that at this  
22          point.

23                    But from our perspective, from  
24          Homeland Security's perspective, law



1 enforcement partners continue to look at  
2 those that would cause us harm.

3 CHAIRWOMAN KRUEGER: Thank you.  
4 Assembly.

5 CHAIRWOMAN WEINSTEIN: We go to our  
6 chair of Gov Ops, Assemblyman Zebrowski.

7 ASSEMBLYMAN ZEBROWSKI: Thanks, Chair  
8 Weinstein.

9 And good afternoon, commissioner,  
10 great to see you. Thanks for being with us  
11 today. And like my colleagues, let me thank  
12 you and all the men and women who work under  
13 you for all the work and how, you know,  
14 during this difficult time you've found ways  
15 to help out in a variety of ways, you know,  
16 looking at and listening to your testimony  
17 today.

18 I know Senator Brooks I think touched  
19 on it earlier, but I just sort of wanted to  
20 ask -- piggyback on his comments and ask you  
21 a little bit directly too. So certainly, as  
22 he sort of mentioned, you know, over the past  
23 year, January 6th, it certainly seems a lot  
24 of New Yorkers think extremism, domestic

1 terrorism is on the rise.

2 And I know that -- and I'm not asking  
3 you to sort of comment publicly on things  
4 that are sensitive. But what can you say  
5 publicly to New Yorkers about these threats,  
6 about your analysis of these threats, about  
7 the rise of the threats and where we are now,  
8 about our ability to proactively prevent  
9 possible incidents of violence in the future?

10 And then specifically, because this is  
11 a budget hearing, you know, tie it towards  
12 our resources, both this year and in future  
13 years. Do we have enough resources for you  
14 to be proactively doing what needs to be done  
15 to protect all the various corners of New  
16 York State?

17 DHSES COMMISSIONER MURPHY: What I  
18 would say is that those that have direct  
19 responsibility for gathering information,  
20 those that are authorized to gather  
21 information on citizens and continue to do  
22 analysis, we routinely partner with those  
23 folks. The New York State Police and the  
24 Intel Center have collaborated with the other

1 agencies throughout the state to be able to  
2 track certain individuals that would  
3 otherwise want to cause us harm.

4 And without going into specifics of  
5 how that's done or who it is, I think that  
6 the citizenry of New York should be fairly  
7 comfortable that we have a system in place to  
8 be able to take a look at this and to act on  
9 those people that would otherwise cause us  
10 harm, again.

11 So from that perspective, I think, you  
12 know, we are -- we're in a good place. Could  
13 we use more resources over time to better  
14 identify people and track them or groups of  
15 people that would cause us harm or cause  
16 citizens harm? Absolutely. I mean, it goes  
17 anywhere from something as basic as license  
18 plate readers that have yielded some  
19 incredible intelligence for us that would  
20 help prevent something from happening, to  
21 something as simple as the "See Something,  
22 Say Something" Program and the tip lines that  
23 we have that are relatively inexpensive but,  
24 if the population has confidence in us that

1           we will act on those things -- which we do,  
2           which our law enforcement partners do --  
3           again, I think those in New York should feel  
4           comfortable that there's a constant  
5           unwavering eye looking for those that would  
6           harm us.

7                     ASSEMBLYMAN ZEBROWSKI: Thank you,  
8           Commissioner. And I know that to be true,  
9           and I appreciate, over the years, you and  
10          your team's collaboration with the Assembly  
11          and with the Senate.

12                    And I would just end with saying that  
13          as, you know, we're certainly in troubling  
14          times and I know we have a joint commitment  
15          to protect all the people of New York State.  
16          And, you know, I just want to express our  
17          commitment, you know, for myself but I think  
18          for most if not all of my colleagues, that  
19          we'll work together and are willing to work  
20          together to sort of identify those resource  
21          needs over the course of the year -- not just  
22          during these budget hearings like today --  
23          but so that we're looking outward several  
24          years and proactively to address all the

1 safety concerns of New Yorkers. And really,  
2 thank you for all that you've done and your  
3 team has done.

4 DHSES COMMISSIONER MURPHY: Thank you,  
5 sir.

6 CHAIRWOMAN WEINSTEIN: Thank you.

7 Senate, do you have anybody else? We  
8 still have people.

9 CHAIRWOMAN KRUEGER: No, I don't  
10 believe we do.

11 THE MODERATOR: Senator Brooks has his  
12 hand up.

13 CHAIRWOMAN KRUEGER: Oh. No, but he  
14 took it down for me, actually. He just  
15 didn't know he took it down.

16 (Laughter.)

17 CHAIRWOMAN WEINSTEIN: Assemblyman  
18 Lavine for five minutes.

19 ASSEMBLYMAN LAVINE: Thank you so  
20 much. And thank you, Commissioner.

21 Scott Beigel is a New Yorker, and he  
22 was a teacher at the Marjorie Stoneman  
23 Douglas High School in Parkland, Florida,  
24 when he was murdered almost three years ago

1 protecting his students, and he did protect  
2 his students.

3 The Senate today is scheduled to vote  
4 on the Scott J. Beigel Unfinished Receiver  
5 Act, which would make it unlawful for anyone  
6 not a licensed gun dealer to possess the  
7 component parts to do-it-yourself homemade  
8 weapons, which are easily purchasable online.  
9 And the FBI has reported that between 2010  
10 and 2020 there's been a proliferation of the  
11 manufacture, the home manufacture of these  
12 weapons. And as of 2020, there had been over  
13 2500 arrests, federal arrests for their  
14 possession.

15 In recent months some of the militant  
16 rightist movements have had their members  
17 arrested for committing crimes and possession  
18 of these homemade weapons. They don't want  
19 the government knowing what kind of weapons  
20 they have got. After all, the government is  
21 the enemy, unfortunately. But this is the  
22 world that we live in.

23 Can you tell me, has the Division of  
24 Homeland Security begun to yet focus on the

1 threat posed by the homemade do-it-yourself  
2 manufacture of these sophisticated tactical  
3 weapons?

4 DHSES COMMISSIONER MURPHY: So there's  
5 really two things that the division does that  
6 I think fall into the category of taking a  
7 look at this type of thing.

8 There's really -- the first one is  
9 probably the most direct, and that is with  
10 our Red-Teaming, where we would go out to a  
11 business establishment that may have  
12 component parts, not only for building a  
13 weapon but also for potentially bomb-making  
14 material. And then we work with the  
15 "See Something, Say Something" Program to get  
16 additional eyes or sensors, if you will, in  
17 the community to be able to do that.

18 So we go out and do a series of  
19 educational opportunities in a particular  
20 area, in conjunction with the  
21 counterterrorism zone, local law enforcement.  
22 If that component parts and pieces would be  
23 part of a business there, we will go in then  
24 later and then sample that organization to

1 see if they're tracking who sells it, if  
2 somebody buys those parts and pieces that  
3 there's an unknown reason why they would buy  
4 them and it would otherwise be used for  
5 something else.

6 So through the Red-Teaming, I think we  
7 touch it. What we also do is through our  
8 infrastructure vulnerability, we take a look  
9 at some of that infrastructure that  
10 potentially could be at risk.

11 But I would tell you that in more  
12 specific terms, it would be our law  
13 enforcement partners -- really State Police  
14 in this case, or others -- that would be  
15 looking into something more in-depth, like a  
16 mail order or somebody giving us an  
17 indication that they would be -- somebody  
18 that they know would be purchasing items that  
19 they would have something nefarious in mind  
20 with those.

21 So I think not directly touching on  
22 what you're asking, sir, but that is our  
23 involvement in it.

24 ASSEMBLYMAN LAVINE: Thank you,



1 Commissioner. Thank you for all you and your  
2 division does. And thank you for addressing  
3 this burgeoning and imminent threat to the  
4 safety of our citizens.

5 Take good care. Thank you.

6 DHSES COMMISSIONER MURPHY: Thank you,  
7 sir.

8 CHAIRWOMAN WEINSTEIN: Thank you.

9 So now we go to our final Assembly  
10 questioner, Assemblymember Lawler.

11 ASSEMBLYMAN LAWLER: Thank you,  
12 Chairwoman.

13 Commissioner, thanks for joining us  
14 this morning. I apologize for -- I've been  
15 going between screens for session and the  
16 budget hearing. So if I ask a question that  
17 you already answered, if you can indulge me,  
18 I'd appreciate it.

19 With respect to the FEMA  
20 reimbursements, what expenditures by local  
21 governments are considered eligible for this  
22 reimbursement? And does this include FEMA  
23 funding or CARES Act funding or both?

24 DHSES COMMISSIONER MURPHY: So I think

1 the answer is both, in terms of what is  
2 eligible for purchasing.

3 Our agency is not managing the  
4 CARES Act dollars. What we will do is work  
5 with municipalities as to what those eligible  
6 costs are. Some of them are still being  
7 defined right now -- in other words,  
8 cleaning, for example, or sanitizing, as well  
9 as some of the PPE that was purchased over  
10 time. Because we had a period of  
11 eligibility, then a period of ineligibility,  
12 and now we're back to something that looks  
13 more like 100 percent reimbursement. So we  
14 are currently working with FEMA to best  
15 identify what those eligible costs are.

16 But in the end, sanitation, as it  
17 relates to infection, personal protective  
18 equipment of a variety of types. Some of it  
19 may be durable medical supplies in the end  
20 that would be reimbursed. And then right  
21 now, as of I think it's the 21st of January,  
22 a hundred percent on vaccination costs. In  
23 other words, resources used by the county or  
24 the municipality to administer vaccines,

1 pretty much all of those costs to be able to  
2 bring people into a particular site, to be  
3 able to provide them the vaccine, to provide  
4 them the medical supplies that support the  
5 administration of the vaccines, those types  
6 of things.

7 Did I get to your question there, sir?

8 It's fairly broad to answer.

9 ASSEMBLYMAN LAWLER: Yup. I  
10 appreciate it.

11 Shifting gears completely away from  
12 that, my last question is about obviously  
13 some of the violence and extremism that we've  
14 witnessed in our country both, you know, last  
15 summer with some of the riots, and certainly  
16 on January 6th down at the Capitol.

17 When you're looking into some of this,  
18 are you looking to see if there are  
19 organizations or entities that are paying  
20 people to go to protest, paying people to be  
21 part of this violence in any way and helping  
22 kind of organize? Because in some of these  
23 cases it certainly seems very organized. And  
24 I'm just curious if that's something you've

1 looked into as part of ensuring the public  
2 safety here.

3 DHSES COMMISSIONER MURPHY: Okay. So  
4 our agency specifically does not look into  
5 that.

6 But I can tell you from being part of  
7 the community of interest in this case --  
8 again, I would refer back to the State  
9 Police, our federal partners that sit in the  
10 New York Intel Center, they do analysis on  
11 the flow of money that comes in support of a  
12 number of activities. So that is a component  
13 of the activity that goes on.

14 And I can assure you that behind a  
15 closed door we could probably talk a little  
16 bit more about those activities as they  
17 relate to that.

18 ASSEMBLYMAN LAWLER: I appreciate  
19 that. And I know my time is up. I would  
20 just say the -- I think that's something we  
21 need to look at and go after those that are  
22 paying people to actually go agitate and  
23 organize in that manner.

24 So thank you.

1 DHSES COMMISSIONER MURPHY: Thank you.

2 CHAIRWOMAN KRUEGER: Thank you.

3 CHAIRWOMAN WEINSTEIN: So, Senator  
4 Krueger, we are finished on the Assembly  
5 side.

6 CHAIRWOMAN KRUEGER: And we are  
7 finished on the Senate side.

8 So, Commissioner, I want to thank you  
9 very much for being here with us today. And  
10 continue with your good work on our behalf,  
11 even though we often don't know all the  
12 things you are doing with your division.

13 Our next up, the New York State Office  
14 of Information Technology Services, Angelo  
15 "Tony" Riddick, interim CIO and director.

16 Are you with us?

17 THE MODERATOR: He was.

18 CHAIRWOMAN KRUEGER: Hello. Does  
19 anyone on staff know whether --

20 (Overtalk.)

21 THE MODERATOR: Yeah, he was just  
22 here. We will --

23 CHAIRWOMAN KRUEGER: Okay. We've lost  
24 him; we will find him.

1                   And for those of you tracking the day,  
2                   we've completed four of our eight government  
3                   representatives, just to give you a flavor  
4                   for the length of this hearing.

5                   SENATOR RIVERA: By the way, it's more  
6                   than a little ironic that it is the chief  
7                   information officer that had technical  
8                   issues. Just sayin'.

9                   (Laughter.)

10                  INTERIM CIO RIDDICK: You know, that  
11                  happens all the time.

12                  Good afternoon. Can you hear me?

13                  CHAIRWOMAN KRUEGER: Yes, we can hear  
14                  you. Hi, how are you?

15                  INTERIM CIO RIDDICK: I'm fine, thank  
16                  you. I just looked at my team and said, that  
17                  had to happen right at the nick of time. So  
18                  my apologies.

19                  CHAIRWOMAN KRUEGER: That's okay.  
20                  Everybody has a little bit of technology  
21                  problems, it's true, it's true.

22                  INTERIM CIO RIDDICK: Especially the  
23                  chief information officer.

24                  Thank you, Chairs Krueger and

1 Weinstein and distinguished members of --

2 CHAIRWOMAN KRUEGER: Wait, wait, wait.

3 One second. Somebody's not on mute. Please  
4 put yourself on mute. We don't want to hear  
5 your phone conversations. Thank you.

6 Okay, please keep going.

7 INTERIM CIO RIDDICK: Thank you,  
8 Chairs Krueger and Weinstein, and  
9 distinguished members of the Senate and  
10 Assembly, for your leadership, experience and  
11 service to New York. My name is Angelo  
12 Riddick, and I am grateful to be joining you  
13 to discuss the work and mission of the  
14 State's Office of Information Technology  
15 Services.

16 Before starting as the State CIO in  
17 December, I was blessed to have a 30-year  
18 military career, much of it specializing in  
19 information technology. Most recently I  
20 served as the CIO of the United States Virgin  
21 Islands.

22 Let me start by first saying thank you  
23 to Governor Cuomo for the opportunity.

24 Over much of the last year, the agency

1 I now lead has been at the forefront of the  
2 state's COVID response. We helped tens of  
3 thousands of state employees in their  
4 transition from office to remote work with  
5 laptops, phones, video conferencing tools,  
6 and secure access to the state's network.  
7 This work allowed our client agencies to  
8 continue meeting the needs of New Yorkers  
9 during the global pandemic.

10 We rapidly built and deployed new  
11 applications like the Facility Entry  
12 Screening app, which has allowed state  
13 employees to begin safely returning to their  
14 offices. Eighty state entities now use this  
15 tool to protect their most precious  
16 resource -- our people.

17 We created the state's COVID-19  
18 dashboard and Nourish New York app, expanded  
19 remote hearings and virtual waiting rooms,  
20 and improved the digital experience for  
21 millions of New Yorkers in search of state  
22 services.

23 At the Governor's direction, we  
24 managed the state's successful Tech SWAT



1 program, a partnership with leading  
2 technology companies that allowed us to surge  
3 resources and meet unprecedented demand.  
4 Tech volunteers donated 25,000 pro bono hours  
5 and saved taxpayers \$14 million.

6 The work now being done by ITS is  
7 consistent with the Governor's "Build Back  
8 Better" directive. When it comes to  
9 technology, our challenge is always to build  
10 back smarter, more agile, more modern, and  
11 more secure for the future.

12 Despite new and unexpected challenges  
13 caused by the COVID pandemic, our \$861  
14 million Executive Budget allocation is  
15 virtually unchanged from last year. However,  
16 like most agencies, we are doing more with  
17 less. ITS has accelerated modernization  
18 efforts, enhanced the digital offerings of  
19 many state agencies, and we continue to  
20 decommission legacy systems.

21 We are now fully engaged with the  
22 vaccine distribution sites around the state,  
23 providing 24/7 technical support and  
24 assisting with other COVID-19-related

1 IT challenges. Meanwhile, our security team  
2 is working around the clock to protect the  
3 state's infrastructure from a growing number  
4 of cyber threats.

5 In cooperation with partner agencies  
6 like DHSES, our security experts are often  
7 engaged to support state and local government  
8 entities, hospitals and schools as they work  
9 to navigate threats to their own  
10 environments.

11 The much-publicized SolarWinds hack  
12 has impacted many federal agencies. And  
13 while our forensic review has indicated no  
14 unusual activity within our systems to date,  
15 New York, as always, remains on high alert.

16 Due to the challenges and complexities  
17 brought on by COVID, we live in a very  
18 different world than the one we resided in  
19 just a year ago. Under the Governor's  
20 leadership, I am proud to say that we have  
21 adapted to these challenges and continue to  
22 position New York as a leader and innovator.  
23 The Executive Budget will enable us to  
24 deliver timely and cost-effective solutions

1 for more than 40 Executive agencies and the  
2 New Yorkers they serve.

3 Technology has been an ally during the  
4 pandemic. It's allowed teachers to continue  
5 to educate our children, helped many  
6 businesses evolve and remain open, allowed  
7 New Yorkers to seek real-time medical advice  
8 from highly-skilled doctors and nurses,  
9 ensured the integrity of state and federal  
10 elections, and kept us connected to our  
11 families when we needed them the most.  
12 Investing in our technology infrastructure is  
13 more important today than it has ever been.

14 I am truly honored to serve the state  
15 of New York. As CIO, my goal is to  
16 seamlessly integrate the people, processes,  
17 products and policy to serve our citizens in  
18 a better, smarter and more cost-effective  
19 way.

20 I thank you for your time, and I'm  
21 happy to answer any questions you may have.

22 CHAIRWOMAN KRUEGER: Thank you very  
23 much, Commissioner.

24 I don't see the Senate chair yet, so

1 I'm going to move along to Assembly Chair  
2 Zebrowski for the first set of questions.

3 ASSEMBLYMAN ZEBROWSKI: Thank you.

4 And thanks for being with us here  
5 today.

6 I've got a couple of questions. And I  
7 think the first one is definitely in your  
8 purview, and the second one may not be, so  
9 perhaps you could point me in the right  
10 direction, because I don't know who else I  
11 would ask about it.

12 First, so the budget once again  
13 includes a proposal to have almost like a  
14 design-build system, right, for comprehensive  
15 technology service contracts. So maybe you  
16 could talk a little bit about, you know, what  
17 problems are you trying to solve? What does  
18 this give you the ability to do? How do you  
19 currently sort of like internally produce,  
20 you know, technology products, and how do you  
21 currently procure technology products, and  
22 how would this improve that process?

23 INTERIM CIO RIDDICK: Of course IT  
24 procurement is a touchy subject. And thanks

1           for asking that question. I'm very familiar  
2           with the process, I've read on the proposal.  
3           And what this proposal will allow us to do is  
4           possibly use one vendor from cradle to grave  
5           in terms of project management, architecting,  
6           and executing the project itself.

7                     Under the old infrastructure -- and  
8           I've used it in many cases before -- the  
9           procurement process forces an entity to look  
10          at several vendors throughout the life cycle  
11          of the project. Meaning that you may have  
12          one architect, you may have one builder, and  
13          you may have one quality-control executor.

14                    It's complicated when you add too many  
15          cooks in the kitchen. What this bill  
16          proposes to do is to allow us of course to  
17          use the standard procurement processes that  
18          we use in the State of New York but in many  
19          cases we can procure a vendor to do the job  
20          from its architectural phase and concept  
21          phase through the build phase and finally  
22          through the quality-control phase before  
23          deployment.

24                    ASSEMBLYMAN ZEBROWSKI: Okay. So it's

1 not necessarily like a cost-saving measure as  
2 much as it's -- you know, given the nature of  
3 these contracts, this would make them -- this  
4 type of procurement process would make it  
5 more efficient and more -- I'm searching for  
6 the right word; maybe you can give it to me.  
7 Is that essentially what you're saying?

8 INTERIM CIO RIDDICK: I think you used  
9 the perfect word, sir.

10 Efficiencies are what we want to  
11 capitalize on, and this proposal will allow  
12 us to be more proficient, especially in  
13 big-contract procurement programs.

14 ASSEMBLYMAN ZEBROWSKI: Okay. all  
15 right. Thank you for that info.

16 The second thing. So there's a part  
17 of the budget that would permit agencies to  
18 share voluntarily provided citizen data as  
19 long as the sharing is consistent with state  
20 and federal law and preexisting privacy  
21 practices.

22 So this is the part where I'm not a  
23 hundred percent sure if this would be under  
24 your purview or not. But assuming it is,

1           could you give me a sense of what you're --  
2           what is the state trying to do and how our  
3           current laws don't allow it?

4                     Because, you know, in our sort of  
5           analysis, I'm not sure that we don't think  
6           that, you know, you're able to do some sort  
7           of interagency sharing if you're looking to  
8           give people the ability to, you know, sort  
9           of, I don't know, one-stop shop, if you will.  
10          But, you know, sign into one state agency and  
11          have their information be shareable with  
12          other agencies. I can see how that, you  
13          know, would be helpful to New Yorkers.

14                    Is that what you're trying to get at?

15                    INTERIM CIO RIDDICK: I see your  
16          perspective and I absolutely agree, that if  
17          we have one giant database and we could  
18          segment that database to allow information to  
19          be shared on a need-to-know and need-to-share  
20          basis, we'd be in an optimum environment.

21                    However, that's not always possible.  
22          Agencies develop requirements. We configure  
23          databases and data streaming based on those  
24          requirements using the policies and

1 regulations that they are governed by. We  
2 don't set those policies. However, we do  
3 work with agencies to understand those  
4 requirements and secure that data as much as  
5 we can.

6 ASSEMBLYMAN ZEBROWSKI: So maybe you  
7 could allay the fears of myself and some of  
8 my colleagues, okay?

9 So what they would be afraid of if we  
10 adopt this in the budget is that, you know,  
11 we are contributing to what is a  
12 proliferation of the selling of people's  
13 individual data, resulting in perhaps a host  
14 of, you know, harmful or otherwise invasive  
15 things happening in their lives.

16 So will this provision -- will you be  
17 selling data? Will this -- when you say it  
18 will be voluntarily provided, will it truly  
19 be voluntary? Will people know what they're  
20 doing or when they're signing up for  
21 something on the DMV or on, you know, some  
22 other state agency, maybe they're getting a  
23 fishing license or something, you know, will  
24 they just be checking a box that, you know,



1           they have to check anyway and then therefore  
2           their information is going to be shared more  
3           now than it was in the past?

4                     INTERIM CIO RIDDICK: I can definitely  
5           respect your inquiry about the risk of  
6           sharing data. I can assure you that ITS will  
7           not be in the business of selling data, and  
8           data sharing will be based on requirements  
9           that are established by organizations that we  
10          support.

11                    ASSEMBLYMAN ZEBROWSKI: Okay. So you  
12          can definitively say it's not to sell the  
13          data.

14                    INTERIM CIO RIDDICK: Absolutely.

15                    ASSEMBLYMAN ZEBROWSKI: Okay. And,  
16          you know, I know it says consistent with  
17          state and federal law. Well, you know, that  
18          doesn't give me a whole lot of assurance  
19          because, you know, a whole lot of data's  
20          being shared right now and certainly it has  
21          to be consistent with state and federal law.

22                    So I can take from your comments today  
23          that it's not to sell, it's not to sort of  
24          like share with outside entities that are not

1 related to state agency function, and that  
2 this is merely to allow the state agencies to  
3 exist and share data within each other for  
4 the benefit of New York citizens in terms of  
5 just utilizing state resources?

6 I know I had a lot there, but am I --  
7 can you say yes to that? Can you confirm?

8 INTERIM CIO RIDDICK: I can say  
9 absolutely yes to that.

10 And again, ITS is not in the business  
11 of selling data.

12 ASSEMBLYMAN ZEBROWSKI: Okay. All  
13 right. I appreciate your answers today.  
14 And, you know, for both these items I would  
15 just say, you know, they definitely are  
16 complicated. You know, we want to understand  
17 it. You know, I want to understand it both  
18 as a chair and our staffs want to understand  
19 it, and we want to be able to -- a lot of the  
20 members of the Assembly, probably some  
21 Senators too -- I won't speak for the other  
22 house -- you know, have questions about this  
23 stuff.

24 So as we go forward, perhaps we could

1 set up a communication channel between now  
2 and when we adopt the budget that if we have  
3 additional questions, we can ask you. We'd  
4 appreciate that.

5 INTERIM CIO RIDDICK: Well, thank you  
6 for your questions. I look forward to  
7 working with you in the future.

8 ASSEMBLYMAN ZEBROWSKI: Thank you.

9 CHAIRWOMAN KRUEGER: Thank you.

10 CHAIRWOMAN WEINSTEIN: Senate?

11 CHAIRWOMAN KRUEGER: Senator Diane  
12 Savino.

13 SENATOR SAVINO: Thank you. Thank  
14 you.

15 Nice to meet you, Commissioner  
16 Riddick. I saw in your testimony that you  
17 said that you were pleased to be able to join  
18 the team in December. At the end of this  
19 year I'll ask you if you continue to feel  
20 that way, having been here for a year  
21 (laughing).

22 As you know, New York State, like a  
23 lot of large states, is probably years behind  
24 where it should be with respect to its

1 internet technology infrastructure. Ten  
2 years ago, as a member of the Senate, I wrote  
3 and passed a law that we adopted to allow for  
4 the insourcing of information technology and  
5 the development of an IT -- what we like to  
6 call our own Geek Squad.

7 Ten years later, the state has yet to  
8 fully implement that. We've not been able to  
9 accomplish that. How do we recruit and  
10 retain information technology experts who  
11 want to stay in the government workforce?  
12 And it probably couldn't have come at a worse  
13 time when the pandemic hit and we had to then  
14 send almost all of our workforce home to find  
15 ways to service the population, whether it  
16 was adapting our legacy systems, whether it  
17 was the unemployment system, our public  
18 assistance systems, and be able to have  
19 people work remotely, provide them the  
20 equipment, and do all that and then find ways  
21 to secure them.

22 So you have your work cut out for you.  
23 I know in the Governor's budget he is  
24 proposing a couple of issues that -- I'm

1 happy to hear you explained the issue of the  
2 comprehensive technology contracts, or kind  
3 of the design-build for technology. But I  
4 want to ask you a question that I asked your  
5 predecessor who testified previously from  
6 Homeland Security.

7 One of the big challenges we're seeing  
8 across the state are ransomware attacks,  
9 whether it be in our district attorney's  
10 offices, our school districts, local  
11 governments, or even in our own offices. And  
12 some of it I believe is because we're  
13 allowing local governments, right down to  
14 towns and villages, to handle the issue of  
15 technology purchases and software purchases.

16 Do you think, though, that this  
17 approach of this comprehensive technology  
18 contract is something that would help to  
19 prevent that type of cybersecurity risks?

20 INTERIM CIO RIDDICK: I think it will  
21 definitely create efficiencies. And thanks  
22 so much for the question. But what you did  
23 is you tapped on my philosophy of using  
24 people, processes and policy.

1           As we work with local entities, as we  
2 work with organizations, it's important that  
3 we provide the guidance that they need. Now,  
4 one size fits all doesn't work for  
5 cybersecurity. I've always said, since my  
6 days in academia, teaching at the National  
7 Defense University, that the best we can do  
8 in cyber is stay one town ahead of the posse.

9           It's the people's job who work in ITS  
10 and all the various agencies to lean forward  
11 and make sure that we're paying attention to  
12 what's happening out there in the wild. We  
13 have to improve our processes as well. We  
14 have to make sure that we identify  
15 efficiencies. And one of the processes that  
16 we have to implement and stay glued to is our  
17 ability to do the professional reading, to  
18 find out what's happening out there.

19           And with regards to policy, I'm a  
20 policy man. I think that we should have  
21 inward-facing policies and outward-facing  
22 policies for the use of our technologies.

23           These three things implemented in the  
24 right strategy will help us to secure our

1 network and keep our data safe and our people  
2 secure.

3           However, it takes an effort, it takes  
4 teamwork, and I'm going to be behind that a  
5 hundred percent. Cybersecurity is something  
6 that I'm emphatic about. And again, I  
7 emphasize that we can only stay one town  
8 ahead of the posse. If we can get two or  
9 three, that will be great. But they're  
10 always nipping at our heels.

11           SENATOR SAVINO: I certainly look  
12 forward to working with you.

13           Have you had a chance to analyze some  
14 of these legacy systems that we've had in  
15 place, whether it's the old welfare  
16 management system or particularly with  
17 respect to our public assistance programs?  
18 They're horrible.

19           INTERIM CIO RIDDICK: Oh, absolutely.  
20 I've definitely looked at WMS, the Welfare  
21 Management System, and I've looked at its  
22 successor, the Integrated Eligibility System.  
23 Eventually in 2024 the goal is to deliver the  
24 Integrated Eligibility System, which should

1 clean some of the problems that we've had  
2 with WMS.

3           However, at the same time, it's like  
4 fixing a tire with the car rolling. We  
5 cannot discount that we still have to use WMS  
6 until its life cycle is over with. So we're  
7 paying attention to that, we're trying to fix  
8 the holes, we're trying to fix gaps. We're  
9 trying to keep the clients and the customers  
10 satisfied there.

11           And yes, I've looked at legacy systems  
12 as well. I appreciate that question. I met  
13 with the DMV; I know that they're working  
14 with an antiquated system. But they're  
15 leaning forward as well, and we're looking at  
16 solutions that they can move to to make their  
17 technology up-to-date, more efficient and  
18 more effective. And eventually it will save  
19 us money.

20           SENATOR SAVINO: I definitely look  
21 forward to it.

22           CHAIRWOMAN KRUEGER: Thank you, Diane.  
23 No more, sorry.

24           SENATOR SAVINO: That's okay.



1 CHAIRWOMAN KRUEGER: Thank you.

2 CHAIRWOMAN WEINSTEIN: So we go to  
3 Assemblyman Ra, five minutes.

4 ASSEMBLYMAN RA: Thank you, Chair.

5 Good afternoon. Thank you -- thank  
6 you for being here. My colleague got into a  
7 little bit of what I wanted to, but I just  
8 want to circle back to that Part FF in the  
9 budget bill that deals with this kind of  
10 design-build-type concept for awarding  
11 contracts. And you did give, you know, an  
12 idea of what you're looking for.

13 I just -- I don't know if you can  
14 maybe give like an example of a type of, you  
15 know, situation that it would help the  
16 department with. I know that, you know,  
17 there's -- in the past there's been a major  
18 bidding of IT contracts. And I know that the  
19 state just put off a contract that was due to  
20 be rebid and extended the existing one.

21 So I'm just looking for, would this  
22 potentially be in place of that type of  
23 contract?

24 INTERIM CIO RIDDICK: Well, I think I

1 heard you say you wanted an example, and I'm  
2 very willing to give you an example. And  
3 it's a great segue from what I just talked  
4 about in legacy systems.

5 If we designed a project to upgrade  
6 all of the mainframe systems that we have in  
7 an area -- let's just say an area like Empire  
8 Plaza. In the procurement process we will  
9 look to a vendor that could come in and do an  
10 architectural design, provide the resources  
11 that we need to replace that system -- say,  
12 with a client server-based system or a  
13 software solution that's in the Cloud -- and  
14 that person could work on the architectural  
15 design of the facility itself.

16 Rather than work on a contract that  
17 would hire three or four vendors to do  
18 multifaceted pieces of that work, this will  
19 allow us to do a procurement proposal that  
20 would allow a vendor to make a bid to do all  
21 of the work themselves. That creates  
22 efficiency and reduces conflict, and it  
23 speeds up the project from cradle to grave.

24 ASSEMBLYMAN RA: Okay. And could you

1 just -- you know, obviously we've seen in so  
2 many ways in the last year that some of our  
3 IT infrastructure, you know, needed to be  
4 upgraded to handle things. So certainly I  
5 understand where you're coming from with  
6 regard to that.

7 But I know this is a proposal that has  
8 come up in the past and I guess not made it  
9 past the finish line.

10 So do you think that, you know, the  
11 circumstances have changed in part because of  
12 some of the issues we've dealt with that  
13 makes this the right time to go with this  
14 type of approach?

15 INTERIM CIO RIDDICK: You know, I  
16 think what we're going through with the surge  
17 in COVID and the resources that we have to  
18 use and to tackle, I think it's a great  
19 opportunity to identify those efficiencies  
20 and perhaps use the next project as an  
21 example of the clarity, of the efficiency  
22 that that proposal lends itself to.

23 ASSEMBLYMAN RA: Okay. Well, thank  
24 you for that.

1           It is a -- it's an interesting budget  
2           from a technology standpoint. Certainly, you  
3           know, there's these types of proposals.  
4           There's things I know that aren't directly  
5           related to your department. But, you know,  
6           you have the broadband proposal; you know,  
7           you have obviously the data accountability  
8           and transparency piece.

9           And I just hope that when we get into  
10          some of these areas that are just so  
11          technical, that we can make sure we're  
12          getting the input from our business  
13          community, from people in the state, and  
14          certainly from experts in these areas to make  
15          sure that, you know, we come up with the best  
16          system we want. We always want the best. We  
17          always want to be the leader in the things  
18          we're doing.

19          So I thank you for your answers.

20                 INTERIM CIO RIDDICK: Thank you so  
21          much.

22                 CHAIRWOMAN WEINSTEIN: Thank you.

23                 We go back to the Senate now.

24                 CHAIRWOMAN KRUEGER: Thank you.



1 still working. I can't necessarily answer  
2 all the questions. But feel free to ask me  
3 something specific and I'll give you the best  
4 shot at it that I can. I'll defer to my team  
5 at a later time and get back with you later  
6 if I can't satisfy your requirement here.

7 SENATOR THOMAS: Sure. All right,  
8 I'll ask you one question because of my time.

9 The Governor's proposal gives primary  
10 enforcement to the Department of State. For  
11 context here, the Office of the Attorney  
12 General has actively prosecuted privacy  
13 violations for a decade. The Department of  
14 Financial Services, who was given a small  
15 enforcement role in the Governor's proposal,  
16 has also actively regulated cybersecurity  
17 since 2017.

18 What experience does the Department of  
19 State have in privacy and cybersecurity to  
20 justify their role as primary enforcer?

21 INTERIM CIO RIDDICK: Respectfully,  
22 Senator, I think that's a great question but  
23 I'm going to have to defer to my colleagues.  
24 If I get a satisfactory answer, I'll make

1           sure to circle back with you.

2                     SENATOR THOMAS: All right.

3           Chairwoman, I will yield my time.

4                     Thank you so much, Commissioner.

5                     INTERIM CIO RIDDICK: Thank you.

6                     CHAIRWOMAN KRUEGER: Thank you.

7                     Assembly?

8                     THE MODERATOR: Chair, you're muted.

9                     CHAIRWOMAN WEINSTEIN: We do not have  
10           any other Assembly members.

11                    So back to the Senate.

12                    CHAIRWOMAN KRUEGER: Thank you. I  
13           didn't realize I was on mute.

14                    Okay. Senator Tom O'Mara.

15                    SENATOR O'MARA: Thank you,  
16           Chairwoman.

17                    And thank you for being with us today  
18           to testify. Appreciate your time and your  
19           commitment, which I'm sure it's been a brutal  
20           year from your position in dealing with the  
21           crises that we've had, particularly the  
22           difficulties in unemployment and how that was  
23           handled.

24                    Can you outline for us what's the

1 status of the computer upgrades for the  
2 Department of Labor? That we really got  
3 caught with our pants down this year with  
4 regards to handling unemployment claims, and  
5 my understanding is that was a -- I don't  
6 know how old of a system, but I heard it was  
7 DOS-based.

8 So where are we in regard to that  
9 agency in particular?

10 INTERIM CIO RIDDICK: Thanks for that  
11 question, Senator O'Mara.

12 I don't have a specific answer to  
13 that. I can tell you what I've done working  
14 with the department up to date. But in terms  
15 of a deployment for a new computer system or  
16 an upgrade, I don't have that specific  
17 answer.

18 However, I will make sure that my team  
19 and I work on that and we'll get back to you  
20 at a later date.

21 SENATOR O'MARA: Okay. Yeah, please  
22 do.

23 And do you have a sense of the various  
24 agencies and departments across the state --



1 I mean, where we could find ourselves very  
2 embarrassed and incapable because of our  
3 outdated systems? And just what kind of  
4 outlook you have for the state's overall  
5 upgrading of all its various systems.

6 INTERIM CIO RIDDICK: Absolutely. As  
7 a part of my orientation -- I think that's a  
8 great question.

9 As a part of my orientation, I wanted  
10 my CTO, my chief technology officer, and all  
11 around him to brief me on where we are with  
12 modernization. The modernization efforts  
13 that are in place I'm very satisfied with.

14 I want to improve on the process,  
15 however, of how we develop an RFP, how we  
16 look at bids, how we look at vendors who, you  
17 know, make bids for those RFPs. And make  
18 sure that we're use proper process and  
19 project planning.

20 Recently I went over with my chief  
21 portfolio officer the process that we use to  
22 take a project from cradle to grave.

23 With regards to looking at those  
24 systems, what I want to do is implement a few

1 processes like a control board, to eliminate  
2 the dialogue that it takes to understand what  
3 requirements are as we move forward with  
4 satisfying an upgrade and find efficiencies  
5 to move that process through to  
6 implementation.

7 So yes, we've looked at the legacy  
8 systems. It's going to be a challenge, but  
9 it's not something we can't overcome with  
10 identifying efficiencies and looking at the  
11 latest, greatest leading-edge technology.

12 SENATOR O'MARA: Thank you for that  
13 answer. And I'm glad to hear that you're on  
14 top of this and reviewing these so we don't  
15 have these situations in the future.

16 And I think we need to make a stronger  
17 commitment from the state budgetary process  
18 to make these upgrades. I think we go too  
19 long in between upgrades of various systems,  
20 but -- and the technologies change so fast.

21 Can you generally outline for me what  
22 the -- what your or your office's, the  
23 state's strategy is in regard to the Cloud  
24 technology that's out there? Are we

1           utilizing it fully? Are you comfortable with  
2           the safety and security of it?

3                   INTERIM CIO RIDDICK: You know -- and  
4           I think, again, that's a great question,  
5           because I've had those challenges before.  
6           Should we go to the Cloud or should we use a  
7           local-based system to store? Now, understand  
8           that the data centers that we have are really  
9           virtual clouds for the data that we store.  
10          When we need to resort to a vendor to use  
11          their Cloud resources -- say, AWS, Amazon Web  
12          Services, or Google services -- we'll  
13          definitely look for efficiencies and we'll  
14          always factor in security as we make a  
15          prudent decision to move to those platforms.

16                   SENATOR O'MARA: Well, thank you very  
17          much. Appreciate your time and your answers,  
18          and good luck in making the changes that need  
19          to be made. Appreciate it.

20                   INTERIM CIO RIDDICK: Thank you very  
21          much.

22                   CHAIRWOMAN KRUEGER: Helene, do you  
23          have Assembly anyone?

24                   CHAIRWOMAN WEINSTEIN: We do not.

1           CHAIRWOMAN KRUEGER: Okay. So we  
2 actually have one more Senator. But before I  
3 go to him -- and that's Brad Hoylman -- I do  
4 want to clarify for the record that Diane  
5 Savino is the chair of our new Committee on  
6 Information and Technology, or some better  
7 name than that. And I think you heard from  
8 Kevin Thomas, from Consumer Affairs.

9           These are both crucially important  
10 committees for going down the road and  
11 looking at the endless questions that now  
12 confront us because we live in a world where,  
13 you know, that bad movie, the machines have  
14 taken over, but we're not exactly sure what  
15 they're doing and we need to make sure  
16 they're doing what we need them to do and not  
17 doing all the other things they can do.

18           So I encourage you to continue your  
19 work with those of those committee chairs and  
20 their equivalent Assembly chairs.

21           With that, Senator Brad Hoylman to  
22 close for the Senate.

23           SENATOR HOYLMAN: Thank you.

24           Nice to see you. Thank you for being

1 here, Commissioner.

2 I wanted to ask you a question -- it's  
3 been brought to my attention from  
4 constituents that New York State agency  
5 websites do generally not offer users an easy  
6 way to translate the text of the websites  
7 into different languages.

8 There is one notable exception, which  
9 is the state's COVID-19 vaccine eligibility  
10 website, which features a drop-down menu  
11 allowing users to translate into Spanish,  
12 Chinese, Russian, Haitian Creole, Bengali or  
13 Korean. It's a wonderful feature. I  
14 actually wish more websites incorporated it.

15 In 2011 the Governor issued an  
16 executive order to ensure that state agencies  
17 established language access plans. What role  
18 does the Office of Information Technology  
19 Services play in helping state agencies  
20 comply with Governor Cuomo's executive order?  
21 It was EO26.

22 INTERIM CIO RIDDICK: Senator, great  
23 question. Our role with agencies is to make  
24 sure that we clarify requirements, that we

1 work with those requirements and we deploy  
2 the systems based on those requirements.

3 I think it takes a double  
4 collaborative effort. When our team sits  
5 down with an agency -- say, to build a  
6 website or to deploy a new piece of equipment  
7 or upgrade -- it's important that we  
8 understand what those requirements are.

9 I am not necessarily familiar with the  
10 language challenge we have here, but I've  
11 made a note and I'm going to have my web team  
12 take a look at these websites to make sure  
13 that we're working with these agencies to  
14 meet all of those requirements, be it  
15 language, be it Section 8, whatever we're  
16 required to do.

17 It's my job to make sure we do it  
18 effectively and efficiently, but it's  
19 important that we collaborate. So  
20 collaboration is a part of that process that  
21 I want to improve as a team leader.

22 SENATOR HOYLMAN: Well, thank you, I  
23 appreciate that.

24 I recently introduced legislation with

1 Assemblymember Yuh-Line Niou that would  
2 require New York State agency websites to  
3 incorporate language translation technology  
4 within 90 days. Do you think that's  
5 feasible?

6 INTERIM CIO RIDDICK: I'll have to  
7 look at what that process involved. I think  
8 it's feasible. I know there are some tools  
9 out there that we can link to to make that  
10 more realistic, where we don't have to do the  
11 heavy lifting and write all the codes.

12 So I'll get with my staff to find out  
13 exactly how we define that requirement from  
14 the agencies, take a look at your proposal,  
15 and do it efficiently and effectively and to  
16 standard.

17 SENATOR HOYLMAN: Thank you very much.  
18 Much appreciate it.

19 CHAIRWOMAN KRUEGER: Thank you.

20 And we have been joined by one  
21 additional Senator desperate to ask you a  
22 question, Gustavo Rivera, chair of the  
23 Health Committee.

24 SENATOR RIVERA: Thank you. It will

1 be quick.

2 Hello, sir. These are -- sorry that  
3 I'm a little dark, but the sun is right  
4 behind me right now.

5 The questions all relate to our  
6 corrections system, and specifically I wanted  
7 to see if you could give us any sense  
8 about -- whether it's medical records,  
9 updating medical records software, parole  
10 records, obviously you could -- I don't have  
11 to tell you how much easier either of these  
12 things, whether it's providing medical care  
13 or securing medical care and the parole  
14 process, how easier it would be if there was  
15 a more modernized information system for both  
16 of these things. And also any updates that  
17 you can give us on potentially expanding  
18 broadband for prisons across the state.

19 So anything you can tell us about how  
20 these things interact with corrections and  
21 information technology.

22 INTERIM CIO RIDDICK: Senator,  
23 unfortunately -- and thanks for the  
24 question -- I don't have any ideas that I can



1 express right now. I'll have to look into  
2 that challenge and get back with you, if  
3 you'll allow me, because we're going to have  
4 to do an analysis. I'm not familiar with the  
5 situation. I'm familiar with all of the  
6 requirements -- the HIPAA requirements,  
7 medical records and all of those things. But  
8 as it relates to the correction system, I've  
9 not yet been read in. I will make that a  
10 priority.

11 SENATOR RIVERA: And I would really  
12 appreciate it that you do. I mean, again,  
13 whether it's on the -- I went to one parole  
14 board many years ago as an observer, and  
15 seeing a stack like literally this high off  
16 the desk of just paper, paper, paper for  
17 folks who were being seen that day. I mean,  
18 that obviously does not speak -- it was years  
19 ago, so I'm hoping -- and apparently that is  
20 still the case.

21 So whether it's related to parole,  
22 whether it's related to the medical systems  
23 like -- and whether it's related to broadband  
24 at prisons and also looking more specifically

1           into the tablets that are provided for  
2           incarcerated people. And considering that  
3           they're kind of like a money pit, apparently.  
4           It's like a private company that just kind of  
5           abuses it, the service that they're  
6           providing, I would just appreciate that --  
7           you know, I'm glad that you're on the record  
8           as not being aware of stuff but wanting to  
9           learn more about it, and I would really  
10          appreciate if you would get back to us on it.

11                   INTERIM CIO RIDDICK: Absolutely.  
12          Thank you very much.

13                   SENATOR RIVERA: Thank you, sir.  
14          Thank you, Madam Chairwoman.

15                   CHAIRWOMAN KRUEGER: Thank you. All  
16          right. With that, I think we are going to  
17          say thank you very much. Welcome for joining  
18          us here in New York State in December. And  
19          plan on staying a while, because apparently  
20          we have a long list of things for you to do.

21                   INTERIM CIO RIDDICK: Absolutely.  
22          Thank you so much.

23                   CHAIRWOMAN KRUEGER: Thank you.

24                   INTERIM CIO RIDDICK: Thank you.

1                   CHAIRWOMAN KRUEGER: Our next speaker  
2                   is Michael Green, executive deputy  
3                   commissioner, New York State Division of  
4                   Criminal Justice Services.

5                   And the chairs are Bailey and  
6                   Dinowitz, from Codes.

7                   Welcome.

8                   EX. DEP. COMMISSIONER GREEN: Good  
9                   afternoon. Thank you for having me.

10                  Good afternoon, Chairwoman Krueger,  
11                  Chair Weinstein, and distinguished members of  
12                  the Legislature. I am Mike Green, head of  
13                  the Division of Criminal Justice Services.  
14                  And again, thank you for inviting me to  
15                  appear before you today.

16                  New York State is the second-safest  
17                  large state in the nation, ranking just  
18                  behind Pennsylvania. While final crime  
19                  numbers for 2020 are not yet complete,  
20                  preliminary data shows that the total number  
21                  of crimes reported will be similar to the  
22                  historic low reported in 2019.

23                  The COVID-19 global pandemic has  
24                  placed extraordinary pressure on all

1 New Yorkers. The communities of color,  
2 already facing a disproportionate share of  
3 poverty and violence, have borne the brunt of  
4 the virus's devastating impact. Although  
5 total crime did not increase during this  
6 period, our state's largest cities  
7 experienced a sharp rise in shooting and gun  
8 deaths in 2020, a trend seen in large cities  
9 across the country.

10 The 20 police departments  
11 participating in our GIVE, or Gun-Involved  
12 Violence Elimination initiative, reported a  
13 75 percent increase in shootings and an  
14 82 percent increase in gun homicides.  
15 Similar increases were also seen in New York  
16 City.

17 Staff supported through GIVE, the SNUG  
18 Street Outreach program, and the  
19 Crime Analysis Center network are working  
20 tirelessly to address these increases through  
21 effective, evidence-based strategies, and  
22 have adapted their approach in light of the  
23 pandemic. An innovative partnership with the  
24 State Office of Victim Services has allowed

1 DCJS to establish a comprehensive social work  
2 program within our SNUG sites.

3 Through this \$2.3 million investment  
4 of federal funding, licensed social workers  
5 and case managers are helping individuals and  
6 families address long-term trauma resulting  
7 from ongoing exposure to community violence.

8 Last year, the killing of George Floyd  
9 by a Minneapolis police officer ignited a  
10 renewed focus on social justice and racial  
11 inequality around the country. In response,  
12 Governor Cuomo issued Executive Order 203,  
13 which requires local police agencies to  
14 engage community stakeholders in a  
15 collaborative process to reform and reinvent  
16 how they protect and serve their communities.  
17 This process must be open and transparent,  
18 and local governments must ratify or adopt  
19 such plans by local law or resolution by  
20 April 1st.

21 Strengthening police-community  
22 relationships and improving the fairness and  
23 effectiveness of the criminal justice system  
24 are foundations of DCJS's work. In

1 partnership with the Municipal Police  
2 Training Council, the agency has developed  
3 model policies to address critical issues,  
4 such as body-worn cameras and use of force,  
5 and recently completed a comprehensive update  
6 of the basic training required for municipal  
7 police recruits. The 700-hour training now  
8 includes procedural justice and implicit  
9 bias, and emphasizes decision-making,  
10 communication and de-escalation skills.

11 DCJS has also partnered with the  
12 Office of Mental Health to revise and expand  
13 course components to improve outcomes for  
14 individuals with mental illness and enhance  
15 collaboration between police officers and  
16 crisis intervention services. In addition,  
17 the agency worked with national experts to  
18 develop Principled Policing training, a  
19 comprehensive course focusing on procedural  
20 justice and implicit bias that is available  
21 to all police personnel.

22 DCJS also publishes comprehensive data  
23 on arrests, case outcomes and sentencing by  
24 race and ethnicity, so New Yorkers can see

1           how the criminal justice system is operating  
2           in their communities.

3                     Legislation enacted in 2019 allowed  
4           DCJS to seal 3.2 million New York State  
5           criminal records for arrests that resulted in  
6           low-level convictions and arrests over five  
7           years old that had no corresponding  
8           dispositions. As a result of this work,  
9           nearly 800,000 individuals now have a clean  
10          record, with no New York State criminal  
11          history barring them from obtaining  
12          employment, housing or professional licenses.

13                    Governor Cuomo's proposed budget also  
14          aims to strengthen the police profession,  
15          which further builds upon our work. His  
16          comprehensive proposal establishes minimum  
17          hiring standards for police, subjects police  
18          agencies to the same training standards,  
19          enhances the police accreditation process,  
20          and strengthens the process for decertifying  
21          training certificates for officers who are  
22          terminated for engaging in serious  
23          misconduct.

24                    The proposed Executive Budget also

1 will allow DCJS to continue supporting the  
2 criminal justice system across the state and  
3 evidence-based programs that have received  
4 national attention and distinguish New York  
5 as a leader in effective public safety  
6 policy.

7 Most recently, the Giffords Law Center  
8 to Prevent Gun Violence highlighted our  
9 investment of federal funding in SNUG in a  
10 report advocating for changes in federal  
11 funding to better address community violence.  
12 The Pew Charitable Trusts showcased our  
13 Criminal Justice Knowledge Bank and Research  
14 Consortium, created to promote and expand the  
15 use of research and evidence by criminal  
16 justice professionals.

17 This budget also includes commonsense  
18 legislative changes: Adding a new domestic  
19 violence misdemeanor to flag convictions that  
20 make individuals ineligible to purchase  
21 firearms; closing a federal loophole by  
22 prohibiting the purchase or acquisition of a  
23 rifle, shotgun, or firearm by any person who  
24 is subject of an active arrest warrant for a



1 felony or misdemeanor offense; and requiring  
2 law enforcement agencies to share firearm and  
3 ballistic evidence through NIBIN and the  
4 ATF's eTrace program, two important tools to  
5 fight the increase in gun violence.

6 Public safety is our highest priority.  
7 This 2021-2022 Executive Budget proposal will  
8 allow DCJS to continue its support for  
9 programs and initiatives that promote  
10 fairness, respect and transparency in the  
11 state's criminal justice system, and help  
12 keep New Yorkers safe. Your support of our  
13 work will allow the state to address gun  
14 violence, sustain its historic reductions in  
15 crime, and continue to reduce the number of  
16 individuals who enter the criminal justice  
17 system.

18 Thank you for the opportunity to speak  
19 with you today.

20 CHAIRWOMAN WEINSTEIN: You're muted,  
21 Senator Krueger.

22 CHAIRWOMAN KRUEGER: You know, if you  
23 move around, you can't get your unmute off.  
24 I apologize, everyone.

1                   And our chairs again for this speaker  
2                   are Senator Bailey and Assemblymember  
3                   Dinowitz. So I'm going to give Senator  
4                   Bailey the first 10 minutes.

5                   SENATOR BAILEY: Thank you,  
6                   Madam Chair.

7                   Executive Deputy Commissioner, thank  
8                   you for your testimony.

9                   I'll jump right into it. Obviously  
10                  you mentioned George Floyd and policing, and  
11                  it's obviously been something at the  
12                  forefront of many of our minds, if not all of  
13                  our minds, in the Legislature and not.

14                 And the protest that came about as a  
15                 result of the murder, and I'll say the murder  
16                 of George Floyd, resulted in what many of us  
17                 believe to be significant violations related  
18                 to use of force and kettling. Does DCJS have  
19                 any comment about use of force? Because you  
20                 mentioned it in some of your testimony  
21                 before.

22                 EX. DEP. COMMISSIONER GREEN: Well, I  
23                 wouldn't comment on any specific cases  
24                 because DCJS as a statutory agency doesn't

1           have a role, for example, in disciplinary  
2           process.

3                       I can say generally that DCJS, working  
4           with our partners and specifically the  
5           Municipal Police Training Council, are very  
6           focused on these issues. I mentioned in our  
7           testimony that we just finished a  
8           comprehensive overhaul of the training that  
9           basic recruits go through, the minimum  
10          standards. It's now a 700-hour course. You  
11          know, I think, frankly -- I'm obviously  
12          biased, but I think it's cutting-edge  
13          curriculum and incorporates things like  
14          explicit bias, procedural justice.

15                      When it comes to use of force,  
16          throughout the entire training it emphasizes  
17          communication, it emphasizes deescalation, it  
18          emphasizes things like legitimacy.

19                      You know, so throughout the training,  
20          throughout our work in the Principled  
21          Policing curriculum that I referred to, we've  
22          trained over 400 trainers. That's a  
23          curriculum developed with national experts to  
24          really emphasize legitimacy, procedural

1 justice, implicit bias. Those 400 trainers  
2 have now trained over 3,000 police officers.  
3 We anticipate that that number will snowball  
4 as we get more and more trainers out there.

5 So we share your concerns for these  
6 issues, and while we're not involved in the  
7 adjudication or discipline of individual  
8 incidents, we are working every day with our  
9 local partners to really enhance the training  
10 and skill sets that are available.

11 SENATOR BAILEY: Understood. So no  
12 opinion on controversial procedures such as  
13 kettling or the use of irritants when  
14 individuals, you know, were protesting?

15 EX. DEP. COMMISSIONER GREEN: Again,  
16 no, I'm not in a position to pass on  
17 individual incidents.

18 I'll just say that in general we're  
19 working very hard to -- you know, I think,  
20 given what you've described, our overall view  
21 in terms of the role that we would like to  
22 see for police in the community and the type  
23 of interaction we'd like to see between  
24 police and community has a lot of common

1 ground. And we're working very hard through  
2 our platform, you know, with regard to  
3 training to make sure that that viewpoint is  
4 pushed out and emphasized.

5 SENATOR BAILEY: That's fair.

6 So to the point of the Governor's plan  
7 to make sure that there's some sort of a --  
8 that we have the reform by April 1st, have  
9 any agencies submitted their plan yet?

10 EX. DEP. COMMISSIONER GREEN: Yes. I  
11 don't have an exact number, but we are  
12 receiving plans and they're coming in faster  
13 every week.

14 In addition, we've done outreach --  
15 and when I say "we," collectively, the  
16 administration -- to both municipalities and  
17 police agencies across the state. We've  
18 offered assistance. You know, I got an email  
19 just this morning from a police agency asking  
20 for assistance.

21 So, you know, we know that agencies  
22 and municipalities are actively engaged in  
23 this process. We've received plans. I know  
24 other municipalities have posted draft plans

1 for comment on websites. So it's a process  
2 that, you know, folks across the state appear  
3 to be very engaged in.

4 SENATOR BAILEY: So for those who  
5 haven't, and if they have an issue with that,  
6 from my understanding that if they don't  
7 submit it by April 1st there would be a  
8 monitor that will be placed. Would that be  
9 accurate?

10 EX. DEP. COMMISSIONER GREEN: So  
11 there's two pieces. With the executive  
12 order, the executive order itself indicated  
13 that if a municipality fails to submit a plan  
14 that's been ratified or approved by the  
15 governing body by April 1st, there could be  
16 budgetary consequences, that funding could be  
17 withheld.

18 In addition, in the Governor's Article  
19 VII bills submitted with the budget, there is  
20 a proposal to allow for the appointment of a  
21 monitor for a police department or from a  
22 locality that has not submitted a plan. That  
23 monitor would be appointed by the Attorney  
24 General, in consultation with the Governor,

1 as I understand the proposed legislation.

2 SENATOR BAILEY: Okay. So with the  
3 monitor, would you have any information about  
4 the role and the duty of that monitor, the  
5 extent of the monitoring period?

6 EX. DEP. COMMISSIONER GREEN: Nothing  
7 beyond what's in the legislation itself, in  
8 that it would be a monitor appointed by the  
9 Attorney General, presumably working with the  
10 Attorney General {sic}.

11 SENATOR BAILEY: Okay. Because as it  
12 is right now, it's rather nebulous. And I  
13 was hoping that we could have a little more  
14 guidance about the nature of what the monitor  
15 would do.

16 But let's say that, you know,  
17 everybody puts their plans in, and that's  
18 great. Are there plans to ensure that these  
19 departments comply with what has been -- with  
20 the plans that have been submitted? And if  
21 so, what are those plans to ensure  
22 compliance?

23 EX. DEP. COMMISSIONER GREEN: So far,  
24 according to either the executive order or

1           legislation, there is no role that's dictated  
2           for DCJS in terms of compliance.

3                     That said, you know, we are very  
4           dedicated and are working every day to try  
5           and promote the work of fostering and  
6           legitimizing police-community relations. As  
7           I've said, we've incorporated and are  
8           incorporating it into our training. I just  
9           recorded a video yesterday that's going out  
10          to all law enforcement agencies across the  
11          state encouraging them to engage with us on  
12          work around legitimacy.

13                    You know, so it's something that's  
14          built into our fabric. We're pushing this  
15          and working with law enforcement on it every  
16          day.

17                    SENATOR BAILEY: Certainly. And I  
18          share your desire to ensure that we continue  
19          to do everything we can to bridge the gap  
20          between community and police relations.

21                    And I think some of my colleagues in  
22          the Senate will speak more about uniformity,  
23          and I'll allow them to expound upon their own  
24          ideas. But I wanted to switch briefly to gun



1 violence. And you mentioned gun violence is  
2 a scourge in our communities and it's up at  
3 astronomical rates.

4 We have legislation that would qualify  
5 gun violence as a public health issue. Has  
6 DCJS considered that? And have there been  
7 conversations between DCJS and the Department  
8 of Health as that's related?

9 EX. DEP. COMMISSIONER GREEN: We have  
10 not specifically weighed in on that piece of  
11 legislation.

12 But I can tell you that we at DCJS  
13 have viewed gun violence as a public health  
14 issue, you know, certainly since I've been at  
15 DCJS. And I think there's no better  
16 reflection of that than the project I  
17 mentioned where we've partnered with the  
18 Office of Victim Services and used  
19 \$2.3 million in funding to provide social  
20 workers and case managers, not only to 11 of  
21 the SNUG programs across the state so that  
22 they are embedded within the SNUG programs  
23 and working hand in hand with the outreach  
24 workers, but also in four of the major trauma

1 centers across the state -- Erie Medical  
2 Center, Upstate Medical Center in Syracuse,  
3 Albany Medical Center, and Jacobi.

4 That program also embeds SNUG social  
5 workers in the medical centers so that you  
6 have a direct connection between folks who go  
7 into the medical centers and the SNUG  
8 program, you know, in a warm hand-off to make  
9 sure that folks aren't lost in the process.

10 So, you know, we truly do view gun  
11 violence as a public health problem, and  
12 we're looking for and pushing comprehensive  
13 and holistic solutions that align with that  
14 view.

15 SENATOR BAILEY: Undoubtedly. And the  
16 SUV program is just outside of my district.  
17 Pastor Jay Gooding and the folks at SUV,  
18 Stand Up to Violence, do a phenomenal job, as  
19 does the SNUG program in the City of  
20 Mount Vernon and throughout the state.

21 So to that point, \$4.9 million for  
22 SNUG. I'd like to see SNUG or programs like  
23 that replicated upstate, in the Hudson Valley  
24 as well. Do you believe that \$4.9 million is

1           adequate for SNUG funding?

2                   EX. DEP. COMMISSIONER GREEN:  These  
3           are tough questions, and I think I've said  
4           this for the last several years.  Because as  
5           you know, the problems that our communities  
6           face are huge.  And if there were an  
7           unlimited pot of money, you know, we could  
8           find good use for, you know, all of the  
9           resources.

10                   But I think if you look  
11           historically -- you know, when I started at  
12           DCJS the funding for SNUG I believe was  
13           somewhere between \$1 million and \$2 million.  
14           You know, and with your assistance it's now  
15           grown to almost \$5 million.  In addition,  
16           we've been able to leverage the \$2.3 million  
17           in the Office of Victim Services.  So in  
18           total, our support for the SNUG organizations  
19           across the state exceed \$7 million -- I think  
20           it's about \$7.2 million.

21                   So, you know, while there's always  
22           room for more, I think that's a tremendous  
23           investment that all of you have made in those  
24           programs.  The programs have grown.  We've

1           been able to increase the number of programs  
2           across the state. We're now up to 12 SNUG  
3           programs. We've been able to increase the  
4           size of the programs. In cities with very  
5           high rates of shootings like Buffalo,  
6           Syracuse, Rochester, we've been able to  
7           basically double the number of staff working  
8           in those SNUG programs in addition to the  
9           staff we've been able to put in by adding the  
10          social work component.

11                        So I agree that these are incredibly  
12          important programs. You know, and I think  
13          that the growth in the programs and the  
14          growth in the level of investment, the fact  
15          that we now invest \$7.2 million -- and,  
16          frankly, the fact that the Giffords Law  
17          Center, you know, twice now has held our  
18          funding and support of the SNUG programs out  
19          as a national example represents the fact  
20          that we really are doing good work in this  
21          area.

22                        SENATOR BAILEY: Thank you,  
23          Commissioner. I implore you to continue  
24          expanding it.

1           And Madam Chair, if I may, I'll come  
2 back for a second round if questions aren't  
3 already asked.

4           Thank you for your testimony,  
5 Commissioner.

6           EX. DEP. COMMISSIONER GREEN: Thank  
7 you, Senator.

8           CHAIRWOMAN KRUEGER: Thank you very  
9 much.

10          Assembly?

11          CHAIRWOMAN WEINSTEIN: We go to our  
12 Codes chair, Assemblyman Dinowitz.

13          ASSEMBLYMAN DINOWITZ: Thank you.

14          I want to get back to the police  
15 monitor, because I've looked at it and to me  
16 it's very vague. It says the monitor will be  
17 appointed by the AG, in consultation with the  
18 Governor, to oversee, in quotes, the  
19 operations of the police agency if they fail  
20 to comply with Executive Order 203.

21          What exactly does "oversee" mean?

22          EX. DEP. COMMISSIONER GREEN: My  
23 understanding is that the focus of the  
24 executive order is to get police departments

1 and communities to engage in a collaborative  
2 process and develop a plan where departments  
3 and communities can build on and enhance the  
4 relationships.

5 The monitor would be appointed if  
6 jurisdictions do not engage in and complete  
7 that process -- or could be appointed if they  
8 don't.

9 So it's my understanding that the  
10 focus of the monitorship would be around  
11 making sure that that process is in place, is  
12 moving along and that communities and police  
13 departments are working together to really  
14 enhance police-community relationships and  
15 move police community relations forward.

16 ASSEMBLYMAN DINOWITZ: So it says that  
17 the AG must consult with the Governor on the  
18 appointment of the monitor. Who exactly is  
19 really appointing the monitor? Is it the AG  
20 or is it the Governor?

21 EX. DEP. COMMISSIONER GREEN: Again, I  
22 can just go by the language of the proposed  
23 regulation. As you just indicated, it's the  
24 AG that does the appointing and it's done in

1 consultation with the Governor.

2 ASSEMBLYMAN DINOWITZ: Right. All I  
3 can go by is the language also, and the  
4 language is just not that clear.

5 Would the monitor be expected to  
6 report to the Budget Director in terms of  
7 possible withholding of funds?

8 EX. DEP. COMMISSIONER GREEN: As I  
9 understand it, those two are separate. The  
10 withholding of funds is in the executive  
11 order, so that's already in place.

12 The monitor is a proposal. You know,  
13 so whether or not the monitor ultimately is  
14 passed, the funding lever exists, and I  
15 anticipate the Division of Budget would be  
16 looking at that independent of the monitor.

17 Now, that said, you know, if there's a  
18 monitor appointed and the monitor reports on  
19 information that's relevant, I would  
20 certainly assume that the Division of Budget  
21 would consider all relevant information  
22 around both the process, the progress the  
23 jurisdiction is making on the process, and  
24 the police-community relations in the

1 jurisdiction in making their decisions.

2 ASSEMBLYMAN DINOWITZ: Okay. I want  
3 to switch gears. I want to talk about police  
4 reform proposals.

5 The proposal says it would require law  
6 enforcement officers to comply with  
7 background check standards that include a  
8 criminal history check, a mental health exam,  
9 prior employment and review of previous  
10 police officer misconduct.

11 What background check standards are  
12 law enforcement agents currently required to  
13 comply with in relation to hiring new police  
14 officers?

15 EX. DEP. COMMISSIONER GREEN: There  
16 are no comprehensive uniform state standards  
17 in terms of background checks right now.  
18 Many departments have robust standards, you  
19 know, but there's 550-something police  
20 departments, give or take, in the state.

21 To give you a good example, right now  
22 a criminal history, a fingerprint-based  
23 criminal history background check is not a  
24 state legal requirement in the hiring process



1 of police officers.

2 You know, I think most departments do  
3 it. Accredited police departments have to do  
4 it, because it's built into the standard  
5 there. But accreditation is voluntary.

6 So what this proposal would do would  
7 be to task the municipal police training  
8 council with developing comprehensive  
9 standards that agencies have to abide by.  
10 And then, you know, by law agencies would  
11 have to abide by those minimum standards in  
12 hiring. They would include things like, as  
13 you indicated, criminal history background  
14 check, mental health, physical health, moral  
15 fitness. And among other things, require  
16 that check to include looking into whether or  
17 not that officer has been terminated for  
18 cause from other departments in the past.

19 ASSEMBLYMAN DINOWITZ: How is  
20 information relating to police officer  
21 misconduct currently reported? I mean, is  
22 there like a central database so that it  
23 could easily be checked if somebody is  
24 applying for a job anywhere in the state?

1           EX. DEP. COMMISSIONER GREEN: So  
2           currently DCJS keeps a registry of police  
3           officers and peace officers. And there is a  
4           requirement, some grounded in statute, some  
5           grounded in regulation, that departments  
6           report to DCJS when a police officer is  
7           removed for cause.

8           Unfortunately, that process is not  
9           currently as tight as it should be. And for  
10          example if a -- and we have real-life  
11          examples where this happened: An officer was  
12          convicted after a jury trial of assault,  
13          unlawful imprisonment, and falsifying his  
14          police report in connection with the assault  
15          on a citizen while he was working as a police  
16          officer.

17          That was reported to us as a straight  
18          resignation, and it was reported that the  
19          officer had resigned the day before the jury  
20          verdict took place.

21          Right now, under current law, DCJS is  
22          bound by whatever is reported to us. So even  
23          though we knew that that officer had been  
24          convicted by a jury in a court of this state

1 of those crimes while working as a police  
2 officer, it went on the registry as a  
3 straight resignation and not a removal for  
4 cause.

5 This proposal would tighten up that  
6 process so that in situations like that, you  
7 know, where an officer (A) has left the  
8 department and (B) it's clear from reliable  
9 evidence, like a certificate of conviction,  
10 that that removal was for serious misconduct,  
11 the officer's training certificate could be  
12 invalidated and the officer would be barred  
13 from obtaining a new training certificate.

14 That's another, you know, current -- I  
15 hate to use "loophole," but for lack of a  
16 better word. In cases where it's properly  
17 reported to us that an officer has been  
18 removed for cause right now, that officer's  
19 training certificate -- again, by law and  
20 regulation -- is invalidated, but there is  
21 nothing to stop the officer from going back  
22 through the academy, obtaining a new training  
23 certificate, and being rehired by another  
24 department.

1           This proposal that the Governor has  
2           put forward would bar officers who have been  
3           removed for cause and had their training  
4           certificate invalidated from obtaining a new  
5           one.

6           ASSEMBLYMAN DINOWITZ: The Governor's  
7           proposals will create more work, presumably.  
8           Is DCJS equipped to handle the potential  
9           influx of extra work that the Governor's  
10          proposal is talking about here?

11          EX. DEP. COMMISSIONER GREEN: It will  
12          create more work. You know, obviously we  
13          have plenty of work already.

14          There are provisions in the budget for  
15          six -- or for up to six additional positions  
16          at DCJS, as needed, to handle the extra  
17          workload.

18          And we certainly are ready and  
19          prepared, you know, to implement these  
20          proposals if passed and enacted into law.

21          ASSEMBLYMAN DINOWITZ: So this might  
22          be a little more specific question. Under  
23          the proposal, the commissioner would be  
24          authorized to consider reliable hearsay

1 evidence of misconduct in making a  
2 determination to update the central registry  
3 of police and peace officers in relation to  
4 an officer who is no longer in service.

5 How is "reliable hearsay evidence"  
6 defined in this proposal?

7 EX. DEP. COMMISSIONER GREEN: It's not  
8 defined in the proposal.

9 But I can tell you from my  
10 interpretation, my experience -- the example  
11 I gave you where we learn that a police  
12 officer is convicted in a New York State  
13 court of assault, unlawful imprisonment,  
14 falsifying a report, we get a certificate of  
15 conviction from that court affirming that in  
16 fact that officer was convicted. You know,  
17 to me, that's reliable hearsay.

18 Another piece of this proposal  
19 requires the Attorney General -- and under  
20 the new Attorney General powers that take  
21 effect April 1st of this year that you all  
22 enacted last year that give them the power to  
23 investigate misconduct by police officers, if  
24 the Attorney General -- this proposal

1 requires the Attorney General's Office to  
2 report the findings of those investigations  
3 to DCJS. If the Attorney General made  
4 findings of serious misconduct by a police  
5 officer and that police officer was removed,  
6 a formal communication from the Attorney  
7 General's Office regarding their process and  
8 their findings, again, to me, would be  
9 something that would fall under the rubric of  
10 reliable hearsay.

11 So it's that type of information  
12 that's envisioned -- a certificate of  
13 conviction from a court, a formal  
14 communication from the Attorney General's  
15 Office.

16 ASSEMBLYMAN DINOWITZ: Okay, I have 45  
17 seconds. I'm going to ask you a very quick  
18 question. This may seem out of left field --  
19 or right field.

20 Suppose it was determined that a  
21 police officer of New York State took part in  
22 the coup attempt in D.C. earlier this month.  
23 Is there a ramification for that, that could  
24 be certain?

1           EX. DEP. COMMISSIONER GREEN: So the  
2           initial responsibility for that lies with the  
3           individual departments that employ the  
4           officers. They have disciplinary processes.  
5           Some of them have been negotiated through  
6           collective bargaining.

7           These provisions kick in for officers  
8           who have been removed for cause. So the  
9           first part of that is remove. So if an  
10          officer were removed for participating in  
11          that event and the removal involved serious  
12          misconduct, then yes, this proposal could be  
13          implicated.

14          But the first part would lie with the  
15          department in terms of the removal.

16          ASSEMBLYMAN DINOWITZ: Okay. Thank  
17          you very much.

18          CHAIRWOMAN KRUEGER: Thank you.

19          Back to the Senate, I believe.

20          Senator Savino.

21          SENATOR SAVINO: Thank you,  
22          Senator Krueger.

23          Commissioner, I will be brief because  
24          I only have three minutes.

1           I notice in your testimony you  
2           referenced this new training, that in  
3           partnership with the Municipal Police  
4           Training Council that you have developed this  
5           700-hour training that now includes  
6           procedural justice and implicit bias,  
7           et cetera.

8           Is this basic training for entry-level  
9           officers, or is it mandatory, is it going to  
10          be required? Or is it just offered to the  
11          localities?

12          Because I've done some research and I  
13          introduced a bill yesterday that -- and I  
14          found out that, you know, New York State has  
15          over 500 police departments. Some have  
16          statewide jurisdiction, as you know -- like  
17          the New York State Police, the MTA -- and  
18          most of them are small villages and town  
19          departments.

20          All 62 counties and the City of  
21          New York have multiple departments within  
22          their boundaries, with possible overlapping  
23          jurisdictions. But there's no mandatory  
24          statewide minimum training standards. So



1 I've introduced a bill that would actually  
2 replace the Municipal Training Council with  
3 another structure and develop a statewide  
4 mandatory training council to develop these  
5 types of trainings.

6 So can you describe to me what you  
7 guys have worked on? And would this be a  
8 requirement for every department, for every  
9 police officer, with continuing training  
10 through the course of their career? Because  
11 from what I've found is that many cops go for  
12 their initial training when they're hired and  
13 oftentimes don't have continuing training  
14 during the course of their career, whether  
15 it's in firearms training or it could even be  
16 implicit bias training or conflict  
17 resolution.

18 EX. DEP. COMMISSIONER GREEN: So the  
19 700-hour curriculum that I referred to by  
20 statute applies to municipal police  
21 departments. And currently -- you know, for  
22 example, the State Police is not a municipal  
23 police department, it's a state department.

24 There's also an exception under

1 current law that exempts departments in  
2 cities of over a million, so with regard to  
3 NYPD. The Governor's proposal would  
4 eliminate that language, so NYPD would be  
5 covered and almost all of the 550  
6 municipal -- well, all of the 550 or more  
7 municipal police departments would be  
8 covered.

9 That training is the basic training  
10 that every new officer who is hired has to  
11 undergo. So right now that minimum 700-hour  
12 basic training applies to all municipal  
13 police departments, with the exception of  
14 NYPD. Under the Governor's proposal, it  
15 would also apply to NYPD.

16 Departments are free to train above  
17 that standard if they want, but they have to  
18 at least train to that standard.

19 SENATOR SAVINO: And this would be for  
20 new officers?

21 EX. DEP. COMMISSIONER GREEN: That's  
22 for new officers.

23 With regard to continuing education  
24 for existing officers, the New York State



1 and thank you so much.

2 I have two -- two questions. I do  
3 want to associate my comments with my  
4 colleagues in the Senate who have spoken  
5 before, as well as our chairman.

6 But one of the things that I  
7 noticed -- again, to follow up on Senator  
8 Bailey's notion with respect to SNUG and Cure  
9 Violence programs. So I was combing through  
10 to attempt to find where there is an  
11 association of the rise in gun violence --  
12 and I see that you said there's a 75 percent  
13 uptick in shootings and an 85 percent uptick  
14 in gun-related homicides.

15 However, the budget request or item  
16 for SNUG-related resources stayed at  
17 4.9 million, which does not work with the  
18 rash of gun violence that we've been working  
19 on.

20 So I just wanted your thoughts on the  
21 idea of maybe being able to push for more  
22 resources as commensurate with the rising  
23 crime that we've been experiencing.

24 And also just had a quick question

1 about marijuana arrests, incarceration and  
2 people who are presently on parole. Is that  
3 information kept with the Division of  
4 Criminal Justice Services as it relates to --  
5 as designated by race in terms of the impact  
6 of marijuana arrests, incarceration and  
7 parole?

8 EX. DEP. COMMISSIONER GREEN: So two  
9 questions, if I understand, and I'll try and  
10 answer both of them. And thank you for the  
11 questions. I appreciate them.

12 First, as to funding, you know, I  
13 think (A), you know, as I mentioned before,  
14 you have to keep the historical context in  
15 mind here. And I think we've greatly  
16 increased the funding for programs like SNUG  
17 over time. You know, with the Office of  
18 Victim Services investment we're up to \$7.2  
19 million in funding for our SNUG programs.

20 If you look at states across the  
21 country, I think that level of funding dwarfs  
22 what most other states do. And I think  
23 that's why we've been recognized nationally  
24 for our investment in these programs.

1           I think that as important as spending  
2 money on programs is making sure that we're  
3 spending that money smartly. And DCJS has  
4 been very focused on using, for example,  
5 Byrne JAG funding and other funding to  
6 augment the money in the budget for those  
7 programs. And so in addition to the money we  
8 provide for municipalities, we spend money  
9 out of things like Byrne JAG to provide  
10 training, to provide technical assistance, to  
11 provide support.

12           And we've managed to incorporate into  
13 the DCJS budget over the years money for a  
14 statewide director for the SNUG program,  
15 money for a statewide training director. We  
16 have a statewide director for the social work  
17 program. We've written our own training  
18 programs for both the social work and other  
19 side. So the investment is growing.

20           In addition, there's \$5 million that  
21 can be used out of the discovery and pretrial  
22 funding at least proposed for this  
23 coming-year budget to address gun violence.

24           In terms of the marijuana, we have

1 statistics on our website broken down by race  
2 and ethnicity. If you want specific  
3 information with regard to marijuana by race  
4 and ethnicity, we do have that, if you reach  
5 out to our office we'd be happy to get it for  
6 you.

7 ASSEMBLYWOMAN WALKER: Awesome. So  
8 please do send it to me. But also please put  
9 it and associate all of that with respect to  
10 any conversations regarding the taxation of  
11 marijuana here in the state. Because of  
12 course my district, and particularly  
13 communities of color all across the state  
14 have been overly policed and overly affected  
15 by marijuana arrests, incarceration and  
16 parole.

17 Thank you.

18 CHAIRWOMAN WEINSTEIN: Thank you,  
19 Assemblywoman.

20 Back to the Senate.

21 CHAIRWOMAN KRUEGER: Thank you.

22 We've been joined by Senator Cooney,  
23 but our next Senator to ask questions is  
24 Senator Reichlin-Melnick.

1                   SENATOR REICHLIN-MELNICK:    Thank you,  
2                   Madam Chair.

3                   So, Commissioner, thanks for joining  
4                   us today.  I wanted to ask you a little bit  
5                   about the Securing Communities Against Hate  
6                   Crimes grant program.  This is a program  
7                   since 2017 that has provided funds to improve  
8                   security at religious organizations,  
9                   including nonprofit daycare centers,  
10                  community centers and residential and day  
11                  camps, and protect them from hate crimes.

12                  So the current 2020-2021 budget that  
13                  we're on now included \$25 million for these  
14                  grants, but I understand that there has not  
15                  been a request for proposals put out yet by  
16                  DCJS.  Do you know when DCJS is planning to  
17                  put out an RFP?

18                  EX. DEP. COMMISSIONER GREEN:  I  
19                  believe you're correct in terms of the  
20                  timeline and the information.  We've been  
21                  working with the Division of Budget and  
22                  Homeland Security.  It's my understanding  
23                  that Homeland Security is still working on  
24                  the prior round of funding.  You know, and



1           when that's complete and done, we'll be  
2           prepared to move forward with the next year's  
3           funding.

4                     SENATOR REICHLIN-MELNICK: And so with  
5           regard to those funds from 2019 and '20, do  
6           you know if that was fully expanded? Have  
7           those contracts been paid out? Or it sounds  
8           like they're still in the works.

9                     EX. DEP. COMMISSIONER GREEN: That is  
10          Homeland Security. 2021 is the first year it  
11          was moved to DCJS. Just -- it's my  
12          understanding they're still actively working  
13          on that round of funding. But I'd have to  
14          defer any other questions to Commissioner  
15          Murphy.

16                    SENATOR REICHLIN-MELNICK: Okay. I  
17          appreciate that. I mean, this is just  
18          because we're seeing this sort of rising tide  
19          of right-wing extremism in the country, and  
20          so there are a lot of places of worship  
21          especially that may feel threatened. And I  
22          think it is important that we get the money  
23          out the door if we've got worthwhile  
24          recipients here who need these funds to help

1 keep their -- you know, their congregations  
2 safe and help keep schools safe and other  
3 places like that from violence.

4 EX. DEP. COMMISSIONER GREEN: You  
5 know, I certainly appreciate your concern and  
6 can assure you that we have been working on  
7 this since the budget passed last year, and  
8 are working closely with Homeland Security.  
9 You know, so as soon as it's ready, we'll be  
10 ready to go.

11 SENATOR REICHLIN-MELNICK: Do you know  
12 why the program was shifted from Homeland  
13 Security over to DCJS?

14 EX. DEP. COMMISSIONER GREEN: I do  
15 not.

16 It's my understanding that the  
17 appropriation may have changed slightly, it  
18 may have expanded slightly to include  
19 additional grantees. So, you know, it's  
20 possible there's some thinking that DCJS, you  
21 know, had more expertise with regard to those  
22 grantees. But I can't say for sure why it  
23 shifted.

24 SENATOR REICHLIN-MELNICK: And I

1           guess I also just finally want to note I'm  
2           quite concerned because I understand in the  
3           current budget proposal from the Governor  
4           there is not additional funding provided for  
5           this for the next budget year, and that  
6           concerns me.

7                     I just want to know if you have any  
8           idea why -- why are we cutting back on  
9           funding, again at a time when there are more  
10          threats and the FBI and federal Department of  
11          Justice are identifying rising threats to  
12          minority and religious communities with  
13          extremist actions?

14                    EX. DEP. COMMISSIONER GREEN: Well, I  
15          can't directly address the question.

16                    I do know that this funding has been  
17          made available for many years. I think this  
18          might be the fifth -- last year's money may  
19          have been the fifth year, if I'm not  
20          mistaken. So there have been significant  
21          amounts of funds made available, but I can't  
22          directly answer.

23                    SENATOR REICHLIN-MELNICK: All right.  
24          Thank you very much for your time.

1                   EX. DEP. COMMISSIONER GREEN: Thank  
2                   you.

3                   CHAIRWOMAN KRUEGER: Thank you.  
4                   Assembly.

5                   CHAIRWOMAN WEINSTEIN: We go to  
6                   Assemblyman Reilly.

7                   ASSEMBLYMAN REILLY: Thank you,  
8                   Madam Chair.

9                   Good afternoon, Deputy Commissioner.  
10                  Thank you so much for your testimony.

11                  I actually wanted to raise a couple of  
12                  questions. I'm just going to read them off  
13                  to you, and hopefully you can comment on  
14                  them.

15                  The first has to be about Raise the  
16                  Age. I was wondering if there's any data  
17                  that DCJS has in regards to Raise the Age and  
18                  the impact of cases that have gone to Family  
19                  Court.

20                  And I didn't get a chance to mention  
21                  this under the -- with the Court  
22                  Administration earlier, but I was hoping that  
23                  maybe you can nudge this a little too. It's  
24                  in regards to that question. We were waiting

1           for Staten Island to get upgrades to our  
2           Family Court building, and I think this would  
3           be -- there was supposed to be some funding  
4           that's been in place since 2017, and it  
5           hasn't been allocated yet and it hasn't moved  
6           forward. So I'm hoping that you can nudge a  
7           little on that.

8                         And the second part that I wanted to  
9           ask about was about the legalization of --  
10          the potential legalization of marijuana.

11                        With my prior experience in the NYPD,  
12          one of the concerns -- two of the concerns  
13          that I really have is the driving while  
14          impaired, and I know that there's no real  
15          testing right now. So I'm hoping that we can  
16          incorporate a DRE-type program. And I know  
17          that it's very expensive to train those  
18          officers.

19                        Just to put it into perspective for my  
20          colleagues and anyone that's listening, New  
21          York City has 35,000 police officers,  
22          approximately, and there's only 16 DREs, drug  
23          recognition experts, covering the whole city.  
24          But that's for anyone that's actually under

1           arrest for driving while under the influence.

2           So then the testing would be done afterwards.

3                   I'm looking for something that would  
4           be more along the lines of on-the-street  
5           recognition. You know, the NYPD has a  
6           program operated by Sergeant Schneider and  
7           Police Officer Kessler from their highway  
8           unit that does a modified DRE program, it's a  
9           four-hour class that I think would really  
10          help. If we are really going to potentially  
11          legalize adult-use marijuana, it should be  
12          done in a responsible way, and that's part of  
13          the issue.

14                   Some of the other things that I have  
15          concerns about is the black-market trade on  
16          the street. One of the first homicides that  
17          I dealt with as a rookie sergeant in East  
18          Flatbush was a young 16-year-old man who was  
19          shot in the chest and succumbed to his  
20          injuries. I was leaning over him as he  
21          passed, and I found out that -- later on that  
22          it was in connection to a weed location, a  
23          marijuana location, a fight over turf.

24                   So these are the things that we really

1 have to address and have -- and be mindful  
2 of.

3 The other thing is under-21 driving  
4 with marijuana, hopefully that we can  
5 coordinate with the Department of Motor  
6 Vehicles to ensure that anyone under 21 that  
7 operates a vehicle while under the influence  
8 will have an administrative hearing and  
9 potentially lose their license for a  
10 suspension, like they do with alcohol.

11 So thank you so much for listening.  
12 And if you can get back to me with those  
13 answers, because I think my time is up.

14 EX. DEP. COMMISSIONER GREEN: I will  
15 do that. And we do share a common  
16 background; I spent 22 years prosecuting  
17 homicide cases.

18 ASSEMBLYMAN REILLY: Thank you, sir.

19 CHAIRWOMAN WEINSTEIN: Back to the  
20 Senate. Do you have anyone else?

21 CHAIRWOMAN KRUEGER: We do. Thank  
22 you, Assemblymember.

23 We have Tom O'Mara, the ranker on  
24 Finance.

1                   THE MODERATOR: I'm not sure if he's  
2 with us right now.

3                   CHAIRWOMAN KRUEGER: Oh. Okay. Then  
4 I'm going to jump to me.

5                   I only have a couple of questions for  
6 you.

7                   So obviously you know that down in New  
8 York City, where I'm from and many of us are  
9 from, there's been quite a bit of  
10 disagreement about different policies of NYPD  
11 and reform of police and even getting our  
12 arms around what you do when something bad  
13 happens. So apparently there's a new  
14 proposal about implementing new policies with  
15 the Civilian Complaint Review Board. And I'm  
16 curious whether you've had a chance to review  
17 that and what your opinion is.

18                  EX. DEP. COMMISSIONER GREEN: It's my  
19 understanding, if I'm understanding your  
20 question right, those are local proposals  
21 dealing with City Council. You know, and  
22 while I have reviewed them, you know, it's  
23 not something I can weigh in on.

24                  CHAIRWOMAN KRUEGER: Okay. But you



1 would agree this is a continuing hot topic  
2 for everyone who's running for mayor or City  
3 Council or DA in the city.

4 EX. DEP. COMMISSIONER GREEN: I think  
5 not only is it a hot topic, but there's  
6 research that's been established for over 30  
7 years now, the main body of it coming from  
8 Tracey Meares and Tom Tyler out of Yale, that  
9 if you don't have legitimacy and you don't  
10 have trust between police departments and law  
11 enforcement and, frankly, the criminal  
12 justice system and the communities that they  
13 serve, you're not going to make significant  
14 headway with regard to crime.

15 So, you know, it's just -- it's  
16 just -- it's a crucial issue. If we want to  
17 have safe communities, it's something we need  
18 to focus on.

19 CHAIRWOMAN KRUEGER: I agree with you.  
20 Thank you.

21 So for about 18 years now, I've been  
22 voting against every peace officer bill that  
23 comes before me in the Senate, mostly because  
24 I can't figure out what the heck everyone

1 thinks the training and the qualifications  
2 for these people would be. I just know that  
3 the end of the sentence is always: If you  
4 figure out how to get them to be a peace  
5 officer, then they'll have a gun.

6 So in your new envisionment of  
7 700 hours of training instructing a police  
8 officer anywhere in the State of New York,  
9 where would peace officers fit in this world?  
10 Or do they?

11 EX. DEP. COMMISSIONER GREEN: There  
12 are separate minimum training standards for  
13 peace officers. And I don't know the exact  
14 hours, but it is not 700. You know, it's  
15 many hundreds of hours less than that.

16 And it's my recollection that there  
17 are two separate training standards for peace  
18 officers, one for peace officers and then a  
19 second one for peace officers who wish to  
20 carry firearms, and that training program has  
21 minimum standards above and beyond the peace  
22 officer program. But that's a separate  
23 program that's not as rigorous as the  
24 700-hour curriculum for police officers.

1                   CHAIRWOMAN KRUEGER: And do you have  
2 concerns about people with less training  
3 somehow having what's perceived as police  
4 authority and the ability to carry a gun? I  
5 know with some of the bills over the years  
6 it's been the right to chase, in a car,  
7 suspects; the right to search and seize  
8 without warrants, et cetera, et cetera.

9                   I mean, isn't it sort of -- doesn't it  
10 surprise you that we would have all these  
11 different standards for all these different  
12 people all over the state?

13                   EX. DEP. COMMISSIONER GREEN: I think  
14 your question, you know, really focuses on  
15 the issue, and that is that people need to be  
16 aware of when you give someone peace officer  
17 powers, it means one thing, and there's a  
18 certain minimum level of training that goes  
19 along with that. And when you give someone  
20 police officer powers, it means something  
21 different. And there is additional  
22 responsibilities and powers that go with it,  
23 and there's additional training.

1           need to be very thoughtful about who we're  
2           giving peace officer powers to and who we're  
3           giving police officer powers to, because  
4           those powers, you know, are significant,  
5           they're different, there's different levels  
6           of training. And, you know, I think you're  
7           right to focus on that.

8                     CHAIRWOMAN KRUEGER: Thank you.  
9                     Assembly.

10                    (No response.)

11                    CHAIRWOMAN KRUEGER: Maybe not. Let's  
12           see, where did Helene go?

13                    THE MODERATOR: I do believe we have  
14           Assemblymember Ra up next on her list.

15                    CHAIRWOMAN KRUEGER: Thank you so  
16           much.

17                    (Overtalk.)

18                    ASSEMBLYMAN RA: Thank you for being  
19           here today. I just had a few questions going  
20           back to -- you mentioned in your opening  
21           remarks something that I think we're familiar  
22           with. Many of the large cities in the state



1           against our all-time historic low. I think  
2           we're going to come in somewhere between 800  
3           and 840 homicides for the year when we  
4           collect the chart, which is a terrible  
5           increase from our historic low last year, but  
6           still substantially below, you know, what we  
7           were experiencing in the early '90s, you  
8           know, when I was a line prosecutor  
9           prosecuting homicide cases.

10                        So I just think it's important, first  
11           of all, to keep the historical perspective.

12                        You know, secondly, when we look at  
13           what's happening, overall crime in 2020,  
14           reported indexed crime is about flat. The  
15           one place we're seeing -- well, places we're  
16           seeing increases is violent -- crime is about  
17           flat, but firearm-related crime is up,  
18           shootings are up, and firearm-related  
19           homicides are up.

20                        So when you look at, you know, what's  
21           driving that, one important thing I think is  
22           to look across the country. It's not just  
23           New York State that's experiencing this. We  
24           see similar numbers in major cities across

1 the country.

2 And then secondly, you know, when you  
3 look at, again, what's driving it, is it --  
4 you know, people ask is it the reforms we  
5 passed, is it, you know, something else.  
6 We're not seeing it -- you know, bail reform,  
7 for example, really focused on misdemeanors  
8 and nonviolent felonies. It made the biggest  
9 change there. We're not seeing any movement  
10 in that regard. We're just seeing it in the  
11 firearm-related crime.

12 And so I think looking at things like  
13 COVID and the impact of COVID, looking at  
14 George Floyd and the issues around racial  
15 equality, to me, you know, that correlation  
16 at this point seems to be stronger. But I  
17 think we're going to need more time, frankly,  
18 to look at that over time and really draw any  
19 solid conclusions.

20 ASSEMBLYMAN RA: Yeah, and I -- I  
21 mean, I think -- you know, I'm sure you  
22 recall last year at this hearing there was a  
23 lot of talk about bail reform and things like  
24 that, and we were fairly early in the year

1           and there were some statistics out there that  
2           were showing an uptick, and kind of it was  
3           like, okay, well, let's wait and see when we  
4           have full data. Obviously the world has  
5           changed in tremendous ways since then with  
6           the pandemic and a lot of other things that  
7           have gone on.

8                         So thank you for that answer. It is  
9           alarming, those numbers in and of themselves.  
10          And then when you add to it some of the  
11          proposals in this budget that are reducing  
12          crime prevention and reduction programs. And  
13          certainly this potential for municipalities  
14          to lose money for policing, you know, is a  
15          concern, given these alarming increases.

16                        The one other thing I wanted to ask  
17          you about -- I don't know if you could shed  
18          any light on this within the department, but  
19          one of the things we talked about a lot in  
20          the regard of the criminal justice reforms  
21          was discovery last year. And if you know  
22          anything about how -- you know, there was  
23          this funding that was put in, and what is  
24          going on with that and whether the funding is



1 going out the door or was subject to any of  
2 the withholdings that went on to try to  
3 balance the budget due to the revenue  
4 shortfalls.

5 EX. DEP. COMMISSIONER GREEN: Sure.

6 So just to clarify, DCJS local assistance  
7 funding has not been cut. In fact, DCJS  
8 local assistance funding has been increased,  
9 and the increase is due to that discovery  
10 fund that you've referred to. But our other  
11 programs have remained flat, you know, in the  
12 face of cuts elsewhere.

13 In terms of the discovery funding,  
14 1.75 million of that was awarded to the  
15 New York Prosecutors Training Institute to  
16 support their DEMS system, which all the  
17 prosecutor's offices across the state can use  
18 for discovery. And award notices went out to  
19 the 57 counties outside of New York City just  
20 recently, giving them their award allocation  
21 to support both discovery reform and pretrial  
22 services.

23 ASSEMBLYMAN RA: Thank you.

24 CHAIRWOMAN KRUEGER: Thank you.

1 Senator Brad Hoylman.

2 SENATOR HOYLMAN: Thank you,

3 Madam Chair.

4 Nice to see you, Commissioner.

5 In 2020 we passed the Police STAT Act,  
6 the Police Statistics and Transparency Act,  
7 which among other things is going to require  
8 law enforcement, every law enforcement  
9 department in New York State to promptly  
10 report any arrest-related deaths to DCJS,  
11 disaggregated by county, and including  
12 demographic information about the race,  
13 ethnicity, age and gender of the individuals  
14 who die in arrest-related deaths.

15 Prior to the passage of this, DCJS,  
16 according to your website, identified the  
17 majority of the arrest-related deaths in  
18 New York through reviews of news articles.

19 The law enforcement reporting  
20 requirements took effect in December. Have  
21 you seen compliance with the law so far?

22 EX. DEP. COMMISSIONER GREEN: We have  
23 seen compliance. This reporting is kind of  
24 going parallel with the use of force

1 reporting that has kicked in as a result of  
2 the new legislation. And we are getting data  
3 and reports from law enforcement agencies  
4 with regard to both of those.

5 SENATOR HOYLMAN: Thank you.

6 And under the law, DCJS is going to be  
7 required to annually report that data to the  
8 Legislature and to make the data available to  
9 the public on your website, updated monthly.  
10 Is DCJS prepared from a technology standpoint  
11 to make that data available on your website?  
12 And if so, when can we expect it to be  
13 available?

14 EX. DEP. COMMISSIONER GREEN: Yes.  
15 We're actually working right now on trying  
16 to -- I guess for lack of a better term --  
17 clean the data. We're working with  
18 departments to make sure it's reliable, make  
19 sure, for example, incidents weren't  
20 double-reported.

21 But we do anticipate that by March  
22 that data will be up on the website.

23 SENATOR HOYLMAN: Thank you so much.  
24 That's good news.

1                   EX. DEP. COMMISSIONER GREEN: Thank  
2                   you. It's good to see you.

3                   CHAIRWOMAN KRUEGER: Great. Thank  
4                   you. We -- yes, Helene.

5                   CHAIRWOMAN WEINSTEIN: Yes, we go to  
6                   Assemblyman Tannousis.

7                   ASSEMBLYMAN TANNOUSIS: Hi,  
8                   Commissioner. Thank you so much for joining  
9                   us.

10                  The one question I wanted to ask you  
11                  is can you -- will you be able to tell us how  
12                  many individuals in New York State are  
13                  incarcerated because of marijuana-related  
14                  offenses?

15                  EX. DEP. COMMISSIONER GREEN: I cannot  
16                  give you that figure off the top of my head.  
17                  You know, there's both inmates in the State  
18                  Department of Corrections, there's  
19                  incarceration in local jail facilities. So,  
20                  you know, I couldn't give you a figure.

21                  ASSEMBLYMAN TANNOUSIS: Would you be  
22                  able to look into that for us as regards to  
23                  the state, obviously, state detentional  
24                  facilities?

1           EX. DEP. COMMISSIONER GREEN: As to  
2           the state facilities -- and I don't want to  
3           put him on the spot, but I would suggest that  
4           Commissioner Annucci from DOCCS might be in a  
5           better position to give you information on  
6           who's in DOCCS right now. But we can  
7           certainly work with Commissioner Annucci to  
8           get any information that would answer that  
9           question to you.

10           ASSEMBLYMAN TANNOUSIS: Thank you.  
11           Thank you very much obviously. I appreciate  
12           that, because obviously we're -- this is an  
13           issue -- recreational marijuana is an issue  
14           that's coming up, and obviously we want to  
15           have those facts and figures so we can make  
16           that determination adequately.

17           So thank you very much for your time.

18           EX. DEP. COMMISSIONER GREEN: Thank  
19           you.

20           CHAIRWOMAN WEINSTEIN: So next we have  
21           Assemblyman Palmesano.

22           ASSEMBLYMAN PALMESANO: Yes, thank  
23           you, Commissioner. I have a few questions  
24           for you.

1           First, we've had a lot of talk about  
2           bail reform and the concerns that many of us  
3           have raised on that issue. Do you keep  
4           statistics -- in regards to that, do you keep  
5           statistics on the number of individuals who  
6           commit crimes who have been released without  
7           having to post bail or have some type of  
8           pretrial supervision assigned to them?

9           EX. DEP. COMMISSIONER GREEN: So the  
10          data that we are keeping in connection with  
11          OCA is what was required in the statute. The  
12          statute set out requirements for what OCA and  
13          DCJS need to collect. And as Judge Marks  
14          testified to earlier, by statute OCA's first  
15          report on that data is due in July of this  
16          year. DCJS's first report is due in January  
17          of next year, and we've been working hand in  
18          hand with OCA and fully anticipate that both  
19          entities will meet those deadlines. In fact,  
20          I think -- you know, what I anticipate you'll  
21          find is that we'll be posting the same data  
22          on both the OCA and DCJS websites that  
23          satisfy all of the requirements in that  
24          statute.

1 ASSEMBLYMAN PALMESANO: All right.

2 I think one of the other issues, along  
3 with that, is will that also hopefully  
4 include individuals who are released on  
5 pretrial supervision on their own  
6 recognizance, that status as far as people  
7 who didn't show up for their trial hearings?  
8 Will that possibly be part of those numbers?

9 EX. DEP. COMMISSIONER GREEN: Yeah, I  
10 would have to go back and look at the statute  
11 and see exactly what the reporting  
12 requirements are.

13 But I can assure you that everything  
14 that the Legislature put in that statute in  
15 terms of reporting requirements, we will have  
16 and will have posted publicly.

17 ASSEMBLYMAN PALMESANO: All right,  
18 thank you. I have a couple of other  
19 questions.

20 Relative to the New York State Police  
21 Reinvention and Collaboration, we obviously  
22 understand that departments who fail to  
23 comply with this order risk losing state  
24 funding, as well as there's a proposed

1 directive which requires monitors to be  
2 installed to oversee the operations of these  
3 departments at their own expense.

4 Do we know, to date, how many  
5 departments fall under this order and how  
6 many departments have not complied with this  
7 order as of yet?

8 EX. DEP. COMMISSIONER GREEN: I  
9 believe it's somewhere in the neighborhood of  
10 550 departments that fall under the order.  
11 That's a rough number, but close.

12 We've been in communication and I've  
13 yet to have any department tell me "We're not  
14 going to make it." You know, we're working  
15 with departments. As I indicated, just this  
16 morning I got a question, you know. So our  
17 goal is to help all departments, and we hope  
18 there's no department that doesn't have a  
19 plan in with their municipality by April 1st.

20 ASSEMBLYMAN PALMESANO: Thank you.

21 And as far as withholding of the  
22 funding, could this also apply to federal  
23 grants that flow through the state?

24 And I guess the other -- well, on top



1 of that, with the violent crime that we're  
2 seeing that's happening right now in our  
3 communities, is it a really good idea for us  
4 to be withholding any funding or threatening  
5 to withhold any funding that could help  
6 protect our local communities?

7 EX. DEP. COMMISSIONER GREEN: So in  
8 terms of the details of what funding, I would  
9 have to defer to the Division of Budget,  
10 since they're the entity that's named in the  
11 order, you know, in terms of the funding end  
12 of this.

13 As I said, our goal is to make sure  
14 that we work with departments and that no  
15 department falls into that category.

16 You know, in terms of our major urban  
17 centers where we're seeing the increase in  
18 shootings, you know, my understanding from  
19 our communications with them is that all of  
20 those municipalities are working hard on this  
21 and are on track to be done, you know, by the  
22 April 1st date.

23 ASSEMBLYMAN PALMESANO: Okay. Thank  
24 you.

1                   CHAIRWOMAN KRUEGER: Okay, Assembly  
2 continuing.

3                   CHAIRWOMAN WEINSTEIN: Assemblywoman  
4 Kelles. Thank you.

5                   ASSEMBLYWOMAN KELLES: It's amazing  
6 the technology is still -- I can't seem to  
7 put the video on. I'm being asked, but --

8                   CHAIRWOMAN KRUEGER: There you go.

9                   ASSEMBLYWOMAN KELLES: Lovely.  
10 Wonderful.

11                   Thank you so much for this  
12 presentation and the long explanation of all  
13 of these.

14                   I'm new, so I apologize if this  
15 question is very basic, but I was going  
16 through and looking at the local assistance  
17 reductions and eliminations, and I'm pretty  
18 sure that the Prisoner Legal Services and the  
19 New York State Defender programs are in that.  
20 I know you worked closely with those.

21                   I'm just wondering how those programs  
22 are going, if we have any data of the impact  
23 of those programs. Any information would be  
24 great to hear.

1           EX. DEP. COMMISSIONER GREEN: I don't  
2           have data offhand on how those programs are  
3           working. They are both programs that have  
4           received funding through DCJS.

5           I'm sorry, you said the Defenders  
6           Association and Prisoner Legal Services?

7           ASSEMBLYWOMAN KELLES: Yup.

8           EX. DEP. COMMISSIONER GREEN: So the  
9           Defenders Association, in the Governor's  
10          proposed budget there's a \$1,030,000  
11          allocation. The Prisoner Legal Services,  
12          there's a \$2.2 million allocation.

13          It's my understanding that both of  
14          those sums are the same as in the Governor's  
15          budget from last year, that they haven't been  
16          increased or increased in terms of the  
17          Governor's budget proposal.

18          And again, while I don't have data,  
19          you know, we have -- we've been working with  
20          both of those entities for the nine years  
21          that I've been at DCJS now. You know, and a  
22          very good working relationship with them in  
23          terms of the funding end of things.

24          ASSEMBLYWOMAN KELLES: That's

1           wonderful. Can you describe maybe some of  
2           the other programs -- this was an elimination  
3           of \$16 million in the General Fund that  
4           provided grants to localities and nonprofits,  
5           so I was curious what other programs might be  
6           in that category.

7                     EX. DEP. COMMISSIONER GREEN: Again,  
8           as to the Governor's proposed budget, my  
9           understanding is that there are no items that  
10          the Governor proposed last year that were  
11          enacted as part of his proposal that were  
12          cut.

13                    You know, all of our funding -- for  
14          example, the aid to probation, we give about  
15          \$25 million in funding to alternative to  
16          incarceration programs, about \$44 million in  
17          funding to probation departments, about  
18          \$14 million in funding to gun violence  
19          elimination efforts. As we indicated, a  
20          total of about \$7 million to SNUG.

21                    All of those local assistance that  
22          were part of the Governor's proposed budget  
23          or the Executive Budget last year, it's my  
24          understanding that those are all fully funded

1 in the Governor's proposal this year.

2 ASSEMBLYWOMAN KELLES: And two really  
3 quick questions.

4 I heard a conversation about SNUG  
5 earlier. I'd love to hear about plans of  
6 expanding extensively upstate.

7 And the other is, has there been any  
8 state support or discussion about promoting  
9 Law Enforcement Assisted Diversion programs,  
10 or LEAD programs?

11 EX. DEP. COMMISSIONER GREEN: So with  
12 regard to SNUG, we currently support SNUG  
13 programs in Buffalo, Rochester, Syracuse,  
14 Albany, Troy, Poughkeepsie, Yonkers,  
15 Mount Vernon, one in Hempstead, one in  
16 Suffolk, and one in Newburgh. So we are very  
17 heavily involved in upstate New York with  
18 SNUG programs.

19 In terms of LEAD, we did work with  
20 Albany in their attempts at running a LEAD  
21 program. We did pay for a research component  
22 to that program for several years so we could  
23 get feedback from a data perspective.

24 You know, it's not something -- at

1           least in the way it's operated here in  
2           New York so far, I haven't seen data showing  
3           that it's had the type of impact that I think  
4           you or I would have wanted it to have. You  
5           know, so we have not invested heavily in LEAD  
6           to this point.

7                     ASSEMBLYWOMAN KELLES: Thank you.

8                     EX. DEP. COMMISSIONER GREEN: We --  
9           that being said, you know, I certainly agree  
10          with the idea of trying to find ways to keep  
11          people who don't belong in the criminal  
12          justice system out of the system and connect  
13          them to support systems, you know, that could  
14          be far more helpful.

15                    ASSEMBLYWOMAN KELLES: Thank you so  
16          much.

17                    CHAIRWOMAN KRUEGER: Thank you.

18                    Assembly continuing?

19                    CHAIRWOMAN WEINSTEIN: Yes.

20                    We go to Assemblymember Rajkumar.

21                    ASSEMBLYWOMAN RAJKUMAR: Thank you,  
22          Chair Weinstein, Judiciary Chairman Lavine.

23                    And thank you, Deputy Commissioner  
24          Green, for your testimony this afternoon.

1           I want to use my three minutes to  
2           engage you on issues of underrepresented  
3           immigrant communities and their interaction  
4           with the justice system, specifically around  
5           hate crimes.

6           My first question is on hate crimes  
7           against a particular subset, South Asian-  
8           American immigrants. South Asian immigrants  
9           here in my district in South Queens -- and  
10          around the state and the country -- have been  
11          targeted for hate crimes. These include hate  
12          crimes against Sikh Americans, who wear the  
13          traditional turban, and Bengali Americans.

14          Do you anticipate any items in the  
15          budget that will combat hate crimes against  
16          this specific underrepresented immigrant  
17          group?

18          I see the Governor's 2021 budget  
19          includes \$2 million in support of the  
20          Hate Crimes Task Force, first established in  
21          2018. And in fact before I was an  
22          Assemblywoman, I worked as director of  
23          immigration affairs for the state and I  
24          remember when that task force was created.

1           Do you foresee or is it possible to  
2           explore possibilities for that task force to  
3           engage South Asian communities? And you  
4           mentioned the Governor's Executive Order 203  
5           requiring the local police to engage  
6           community leaders in a process to reform the  
7           police and how they serve their communities.

8           So what are your thoughts on how to  
9           engage immigrant communities in that process,  
10          and where might the opportunities lie for  
11          collaboration?

12           EX. DEP. COMMISSIONER GREEN: So  
13          first, thank you for the question.

14           I think there is data to support your  
15          concern. While generally speaking in 2020 we  
16          did not see an increase -- in fact, overall  
17          we saw, you know, slight decreases in hate  
18          crimes. In New York City -- you know, and  
19          the data is preliminary at this point, but we  
20          did see a rise in hate crimes specifically  
21          targeted against Asian populations.  
22          Upstate -- and again, very preliminary  
23          data -- we saw a rise in hate crimes targeted  
24          against Blacks. So I think there is a basis,



1 clearly, for your concern.

2 In terms of the Governor's budget, the  
3 Governor's budget continues to provide the  
4 funding to DCJS that we need to work with the  
5 Municipal Police Training Council and our  
6 local partners on training around these  
7 issues.

8 As part of the revamp of the basic  
9 course that I talked about, we worked with  
10 the Anti-Defamation League, we worked with  
11 others to really beef up the hate crimes  
12 training section so that every new recruit  
13 will have an up-to-date and thorough hate  
14 crimes training component.

15 And that component that's in there can  
16 also be used by individual departments as an  
17 in-service training on hate crime, if they  
18 want it.

19 So we continue to be engaged with our  
20 partners in terms of training around hate  
21 crime and trying to support entities.

22 And then the last piece of your  
23 question, certainly it's envisioned when --  
24 under the Governor's executive order when

1 departments and municipalities are asked to  
2 engage with communities, that immigrant  
3 communities would be included in that  
4 engagement.

5 ASSEMBLYWOMAN RAJKUMAR: Thank you.

6 CHAIRWOMAN KRUEGER: Thank you.

7 Next to Senator Jeremy Cooney.

8 SENATOR COONEY: Thank you,

9 Madam Chair.

10 And hello, Commissioner, it's good to  
11 see you.

12 EX. DEP. COMMISSIONER GREEN: Good to  
13 see you again.

14 SENATOR COONEY: Long time no see.

15 As someone who's from Rochester and of  
16 course served as our district attorney,  
17 you're well familiar with some of the  
18 challenges and issues we face in Rochester  
19 with policing, specifically in Black and  
20 brown communities, many of which I represent  
21 in the 56th Senate District.

22 My question to you is going to be  
23 framed in the lens of our new Senate  
24 Committee on Cities 2, which is focused on

1 upstate New York cities, specifically the  
2 Big 5. And when it comes to diversity in law  
3 enforcement, both in policing and in the  
4 district attorney's office, it's something I  
5 know that is not unique to Rochester,  
6 certainly, in struggling with -- but I do  
7 wonder if you have some experience, based on  
8 your time not only in Rochester but in the  
9 State of New York, talking with other states  
10 across the country, on how they have been  
11 successful with diversifying our law  
12 enforcement divisions.

13 Because I believe truly that if we  
14 want to have a more just system that works  
15 equally for everyone, I believe that law  
16 enforcement should reflect the communities in  
17 which they serve.

18 And I would appreciate your thoughts  
19 and any examples or specific opportunities  
20 that we could do some more research on.

21 Thank you.

22 EX. DEP. COMMISSIONER GREEN: I  
23 certainly agree -- you know, thank you for  
24 the question. You know, we definitely want

1 police departments -- as we do all of our  
2 other institutions -- to reflect the  
3 communities that they serve. And frankly I  
4 think they would be better -- you know, any  
5 institution is better at doing their job and  
6 better able to serve the community if they  
7 are.

8 We are working, continue to work with  
9 groups like the IACP and others to make sure  
10 that we are up on, you know, what others  
11 around the country are doing.

12 As you know, this is a very  
13 challenging topic and not one that there's an  
14 easy solution to. You know, you mentioned  
15 the Rochester Police Department. You know  
16 they have been under a court order out of  
17 federal court for years around this issue,  
18 and yet it still remains a very difficult  
19 issue.

20 You know, the Governor's proposal,  
21 among other things, does look to standardize  
22 hiring practices and require the Municipal  
23 Police Training Council to do work and put  
24 guidelines around standardized training

1 practices. And if that's passed, we  
2 certainly envision that one part of that work  
3 would be to make sure that whose hiring  
4 practices take into account the desire to  
5 have diverse police departments and are  
6 reflective of that goal.

7 You know, so I think in the terms of  
8 the Governor's budget proposal and current  
9 work, those would be the highlights I'd point  
10 out.

11 SENATOR COONEY: Commissioner, I  
12 appreciate that. And I do have a bill that  
13 I've entered into the Senate which would  
14 specifically work with the Big 5 cities and  
15 address a long-time question about police  
16 residency and, you know, begin to have those  
17 conversations.

18 Because I do believe that making sure  
19 that dollars are staying in the communities  
20 and that people feel invested in those who  
21 they are protecting really does matter.

22 So we'll take a look at what you have  
23 in the budget, and I appreciate your time  
24 today, Commissioner.

1                   EX. DEP. COMMISSIONER GREEN: Thank  
2                   you.

3                   CHAIRWOMAN KRUEGER: Thank you.

4                   CHAIRWOMAN WEINSTEIN: Thank you.

5                   So we go to Assemblyman Braunstein,  
6                   and after that will be Assemblywoman Byrnes.

7                   CHAIRWOMAN KRUEGER: Are you there,  
8                   Ed? Put your mute off.

9                   ASSEMBLYMAN BRAUNSTEIN: Okay, thank  
10                  you. Sorry about that.

11                  Forgive me if someone asked you this  
12                  question earlier, Commissioner; we've been  
13                  going back and forth with different things  
14                  today.

15                  My question is about Executive Order  
16                  203, the Police Reform and Reinvention  
17                  Collaborative plan with the localities. I  
18                  guess I have two questions. My first  
19                  question is, it requires localities to submit  
20                  and -- to put together a plan and then  
21                  certify it and then submit it to your agency.

22                  Once the plan is submitted, is there  
23                  any kind of evaluation after that to see that  
24                  it's acceptable? Or has the locality met its

1 obligation just simply by submitting a  
2 certified plan?

3 EX. DEP. COMMISSIONER GREEN: I'll  
4 have to go back and look at the executive  
5 order again. But my recollection is it  
6 required the submission to the Division of  
7 Budget.

8 You know, certainly that said, you  
9 know, we intend to review all the plans.  
10 But, you know, at least as of now my  
11 understanding is if the plan has properly  
12 been ratified by the local municipality or  
13 governing body, you know, that that satisfies  
14 the requirements.

15 ASSEMBLYMAN BRAUNSTEIN: Because it  
16 doesn't really speak to it in the executive  
17 order. And my question is if a locality --  
18 let's say the City of New York submits a  
19 plan, you know, it's certified, it's put  
20 together. Is there an opportunity later for  
21 the Division of Budget to withhold funding  
22 based on, you know, some kind of subjective  
23 evaluation of the plan that they don't agree  
24 with?

1                   EX. DEP. COMMISSIONER GREEN: And  
2                   that's something you'd have to direct to the  
3                   Division of Budget. I can't speak to that,  
4                   I'm sorry.

5                   ASSEMBLYMAN BRAUNSTEIN: And do we  
6                   know what kind of funding could be withheld  
7                   from a locality if they don't meet the  
8                   requirements?

9                   EX. DEP. COMMISSIONER GREEN: Again,  
10                  that's something the Division of Budget would  
11                  have to speak on.

12                  ASSEMBLYMAN BRAUNSTEIN: Okay. Have  
13                  you had conversations with the City of  
14                  New York about their plan and how they're  
15                  moving?

16                  EX. DEP. COMMISSIONER GREEN: I  
17                  personally have not had conversation with the  
18                  City of New York. But I know -- you know,  
19                  it's a collective process between DCJS, the  
20                  deputy secretary's office, the Budget  
21                  Division and others. You know, and  
22                  collectively we've spoken with every  
23                  jurisdiction.

24                  ASSEMBLYMAN BRAUNSTEIN: Okay. All



1 right. Thank you.

2 CHAIRWOMAN KRUEGER: (Muted.)

3 ASSEMBLYWOMAN BYRNES: Thank you.

4 Assemblywoman Marge Byrnes.

5 Mike Green, how are you, sir?

6 EX. DEP. COMMISSIONER GREEN: Fine,  
7 how are you? Long time no see.

8 ASSEMBLYWOMAN BYRNES: I was going to  
9 say the same thing.

10 I have one question for you. It may  
11 spring to a couple others, but we only have  
12 2 minutes and 45 seconds, so -- but look, we  
13 all hope and expect that our police  
14 departments are going to be submitting plans  
15 that meet all of the new procedures by the  
16 deadline that's been established.

17 My question is if a police department  
18 submits and operates under a plan that they  
19 think in good faith satisfies the objectives  
20 of the state and what they believe satisfies  
21 the requirements, but yet later on down the  
22 line the state for any reason believes that  
23 their plan is inadequate, are they still  
24 going to be penalized? As long as they're

1 operating in good faith and doing their best.

2 EX. DEP. COMMISSIONER GREEN:

3 Ultimately it's the Budget Director who's  
4 going to make those determinations, and I  
5 can't speak for the Budget Director.

6 But what I can say is the intent here  
7 was to simply try and make sure that police  
8 departments, municipalities and communities  
9 engage with each other in an effort to move  
10 relationships between police departments and  
11 communities forward.

12 And certainly I would hope to the  
13 extent that municipalities and police  
14 departments have done that in good faith, you  
15 know, I wouldn't expect that there would be  
16 any consequences for that.

17 ASSEMBLYWOMAN BYRNES: I trust there's  
18 some expectation that because our communities  
19 can be so different -- from a village I live  
20 in that only has 2200 people and basically  
21 two full-time officers, to a larger  
22 municipality -- that they deal with such  
23 different types of complaints and people that  
24 live within the communities that I would hope

1           those types of factors are taken into  
2           consideration as plans are evaluated.

3                   EX. DEP. COMMISSIONER GREEN:  And I  
4           believe that that's the reason why the  
5           executive order was crafted as it is, to have  
6           the approval process being done by the local  
7           governing body.

8                   So that in the village you talked  
9           about, there's a village board made up of  
10          folks who are representative of your village,  
11          and they can pass on whether or not that plan  
12          is appropriate for the village -- which may  
13          be very different than the City of Rochester,  
14          who has a city council who can pass on  
15          Rochester's plan.

16                   So, you know, my understanding is that  
17          the executive order was crafted that way, to  
18          take into account the exact things that you  
19          raised there.

20                   ASSEMBLYWOMAN BYRNES:  All right.  And  
21          then, again, my only fear -- which I hope  
22          doesn't become borne out -- is that somebody  
23          will play armchair quarterback and decide  
24          that plans that are approved ultimately

1 aren't satisfactory. And I'd hate to see for  
2 any reverberations on the back end when they  
3 are operating in good faith.

4 EX. DEP. COMMISSIONER GREEN: No,  
5 thank you. I understand and appreciate the  
6 concern.

7 ASSEMBLYWOMAN BYRNES: Thank you, sir.  
8 Take care.

9 CHAIRWOMAN KRUEGER: Thank you.  
10 Back to the Senate to close -- yes?

11 CHAIRWOMAN WEINSTEIN: We have no  
12 more.

13 CHAIRWOMAN KRUEGER: You have no more.  
14 That's what I thought, thank you.

15 Okay, to close for the Senate the  
16 chair of our Codes Committee, second round,  
17 five minutes, Jamaal Bailey.

18 SENATOR BAILEY: Thank you. Thank  
19 you, Madam Chair.

20 And Commissioner Green, again, this  
21 won't be long at all. This is just related  
22 to the Article VII proposal about the  
23 creation of the crime of -- the new domestic  
24 violence crime created in this new

1 Article VII.

2 I just wanted to know DCJS's opinion  
3 on this, and will it help to -- I guess I --  
4 I guess I'll -- let me take a couple of steps  
5 back, right?

6 During this pandemic we've obviously  
7 seen an increase in stats related to domestic  
8 violence. I just wanted to know will this  
9 Article VII, in your opinion, in the opinion  
10 of DCJS, help to stem the tide of some of  
11 these domestic violence-related offenses.

12 EX. DEP. COMMISSIONER GREEN: So if  
13 the proposal you're talking about is the one  
14 to create new crime, a misdemeanor crime of  
15 domestic violence --

16 SENATOR BAILEY: Correct.

17 EX. DEP. COMMISSIONER GREEN: The  
18 intent is that certain convictions for crimes  
19 of domestic violence are supposed to result  
20 in a disqualifier for someone purchasing a  
21 gun.

22 Currently, though, in order for that  
23 process to take effect, in addition to  
24 someone being charged with a crime, the

1 district attorney has to file a certificate  
2 alleging that it's a crime of domestic  
3 violence. In addition to adjudicating the  
4 criminal case, the court has to hold a  
5 separate hearing to determine whether or not  
6 it's a crime of domestic violence. And then  
7 if in fact a finding is made, not only does  
8 the conviction have to be transmitted to  
9 DCJS, but the results of that separate  
10 hearing have to come to DCJS.

11 And if for any reason any of those  
12 things don't happen -- the DA doesn't file  
13 the certificate, the court doesn't do the  
14 hearing, the result doesn't get transmitted  
15 to DCJS -- someone with a qualifying domestic  
16 violence conviction can still go out and  
17 purchase a gun.

18 This is an attempt to close that  
19 loophole. It will not criminalize any new  
20 conduct. So anything that's criminalized  
21 under this proposal would already be a  
22 criminal offense. It will simply eliminate  
23 the need for filing that separate  
24 certificate, having a separate hearing, and



1           yes, there have been conversations.

2                       I think there have also been  
3           conversations around some of the broader  
4           proposals like expanding the scope of the  
5           Office for the Prevention of Domestic  
6           Violence to include gender-based violence.  
7           There have been conversations around  
8           streamlining the application process for  
9           resources for not-for-profits, you know, that  
10          go to different state agencies, so there  
11          would be a more common platform for that  
12          application.

13                      So in general, yes, I think both the  
14          Office for the Prevention of Domestic  
15          Violence and the administration generally  
16          have been very engaged with the domestic  
17          violence advocacy community here around these  
18          proposals.

19                      SENATOR BAILEY:  And my final, final  
20          question -- you know, sometimes -- I'm sorry,  
21          I'm an attorney too.

22                      (Laughter.)

23                      SENATOR BAILEY:  So as related to  
24          sealing -- you spoke about the sealing of



1 convictions. There are some bills being  
2 proposed -- we'd like to greatly expand our  
3 sealing statutes and actually give us actual  
4 expungement in New York State. Does DCJS  
5 have an opinion on either the legislation or  
6 the concept of expansion of sealing?

7 EX. DEP. COMMISSIONER GREEN: So for  
8 the sealing that we've done, as I indicated,  
9 we sealed about 3.2 million records that was  
10 marijuana -- low-level marijuana convictions,  
11 low-level historical offenses like disorderly  
12 conduct, and things open for more than five  
13 years. That left 800,000 people with clean  
14 records.

15 You know, those types of things we  
16 support. Currently we're working on the  
17 legislation that was just passed and signed  
18 into law which will seal convictions for  
19 loitering for purposes of prostitution. So  
20 we're engaged right now in making sure we  
21 carry that out.

22 And so those types of sealing or  
23 expungement that you referred to we certainly  
24 support, you know, and are working very hard

1 to make sure we carry out everything that's  
2 enacted.

3 SENATOR BAILEY: Excellent, thank you.  
4 You know, New Yorkers deserve to have a clean  
5 slate to be able to move forward.

6 And I thank you for your time and for  
7 your attention to these questions. Thank  
8 you, Commissioner.

9 CHAIRWOMAN KRUEGER: Thank you very  
10 much.

11 EX. DEP. COMMISSIONER GREEN: You too.

12 CHAIRWOMAN KRUEGER: I think at this  
13 point we are done with you for today. Thank  
14 you for spending your couple of hours with us  
15 helping us to understand your agency and  
16 budget.

17 EX. DEP. COMMISSIONER GREEN: Well,  
18 thank you. It's always a pleasure to see  
19 everyone, and appreciate all of your support.

20 CHAIRWOMAN KRUEGER: Thank you.

21 And our next commissioner -- excuse  
22 me, acting commissioner -- Anthony Annucci,  
23 New York State Department of Corrections and  
24 Community Supervision.



1 commissioner, right?

2 ACTING COMMISSIONER ANNUCCI: That is  
3 correct.

4 CHAIRWOMAN KRUEGER: Welcome.

5 ACTING COMMISSIONER ANNUCCI: Thank  
6 you.

7 CHAIRWOMAN KRUEGER: Ten minutes on  
8 the clock.

9 ACTING COMMISSIONER ANNUCCI: Thank  
10 you, Senator.

11 Good afternoon, Chairwoman Krueger,  
12 Chairwoman Weinstein, and other distinguished  
13 chairs and members of the Legislature. I am  
14 Anthony J. Annucci, acting commissioner for  
15 the Department of Corrections and Community  
16 Supervision. It is my honor to discuss some  
17 of the highlights of Governor Cuomo's  
18 Executive Budget plan.

19 Since the Governor took office, the  
20 incarcerated population, now under 33,200,  
21 has decreased by more than 22,000, marking  
22 the lowest total since 1984, and representing  
23 a 54 percent decline since its all-time high  
24 in 1999 of 72,773. More significantly, the

1 total population reduction since January 1,  
2 2020, exceeds 11,000. Even with these  
3 drastic reductions in incarceration, New York  
4 proudly remains one of the safest large  
5 states in the country.

6 With this significant reduction in  
7 population since 2011, the state has safely  
8 eliminated excess capacity through the  
9 closing of 18 correctional facilities without  
10 laying off workers, while achieving  
11 \$292 million of savings for taxpayers. This  
12 year's closure process is underway with the  
13 transfer of staff to vacant positions at  
14 other facilities or offices, while the  
15 incarcerated population is transitioned into  
16 vacant beds elsewhere.

17 Based on the continued decline of the  
18 incarcerated population, we anticipate  
19 additional facility closures in the upcoming  
20 two fiscal years.

21 Over the past year, COVID-19 has  
22 plagued our nation and state. The department  
23 was not spared from the effects of COVID-19.  
24 Accordingly, last March I convened a

1 multidisciplinary COVID-19 Task Force to  
2 guide our comprehensive response.

3           During this pandemic there have been  
4 many heroes along the way. Our essential  
5 workers, including corrections and community  
6 supervision staff, came to work every day and  
7 consistently carried out their professional  
8 duties in an exemplary manner, oftentimes  
9 going above and beyond their traditional  
10 responsibilities. I am very proud of the  
11 dedication and sacrifice staff have displayed  
12 throughout the duration of the COVID-19  
13 public health emergency and thank them for  
14 their continued great work.

15           Incarcerated individuals also helped  
16 to support and protect fellow New Yorkers  
17 with the production of nearly 11 million  
18 bottles of hand sanitizer of various sizes,  
19 over 89,000 protective gowns, and almost  
20 2 million face masks.

21           As the Governor has pointed out, our  
22 path forward is to continue testing and  
23 vaccinations. We have begun the process of  
24 vaccinating our staff and the incarcerated

1 individuals in the system who are 65 and  
2 older, consistent with statewide guidance for  
3 that age group.

4 Under the direction of Governor Cuomo,  
5 the department has also leveraged existing  
6 laws that allowed for the early release of  
7 3,555 nonviolent, non-sex offenders, which  
8 included 791 low-level parole violators from  
9 local custody. The department decommissioned  
10 over 3,000 top bunks, greatly reducing  
11 density within dorm settings, and followed  
12 CDC and DOH guidance to help reduce the  
13 spread of COVID-19. We also modified  
14 policies and procedures in community  
15 supervision that have drastically reduced the  
16 issuance of technical warrants.

17 Despite the pandemic, there were many  
18 accomplishments in 2020. Last year, the  
19 Governor successfully advanced legislation to  
20 remove all individuals under the age of 18  
21 from DOCCS, and to send adolescent offenders  
22 to the Office of Children and Family  
23 Services. This transition was successfully  
24 completed.

1           In 2019, the Governor, along with the  
2           leaders of both houses, jointly agreed to  
3           further overhaul segregated confinement  
4           through administrative action. DOCCS issued  
5           and adopted regulations after a thorough  
6           review of the public comments. Leveraging  
7           the \$69 million capital funding allocation,  
8           the necessary infrastructure upgrades to  
9           develop residential rehabilitation units are  
10          underway, with several becoming operational  
11          later this fiscal year.

12           The regulations further restrict the  
13          number of infractions that can result in a  
14          disciplinary confinement sanction, among  
15          other things. When fully implemented, these  
16          reforms will restrict the use of segregation  
17          for vulnerable populations and cap the amount  
18          of time someone can spend in segregation.

19           Through the ongoing reforms, I am  
20          confident we will successfully provide  
21          incarcerated individuals with the services  
22          and treatment they need, while continuing to  
23          keep staff, the population and visitors safe.

24           Lastly, the Board of Parole, in



1           consultation with the department, adopted  
2           regulations that improved the standard  
3           conditions of supervision, and modified the  
4           parole revocation process, advancing both  
5           alternatives to incarceration options and  
6           shorter periods for reincarceration when  
7           necessary.

8                     In conclusion, while we will continue  
9           to tackle the many challenges posed by  
10          COVID-19, we will simultaneously explore  
11          additional means to further leverage  
12          technology for the delivery of programs and  
13          the advancement of safety, both inside our  
14          facilities and within our communities. We  
15          cannot ignore the overall safety of our staff  
16          and the security of our facilities and  
17          offices. They remain a top priority for the  
18          department. Our professional, well-trained  
19          and dedicated workforce, who perform their  
20          responsibilities in a highly commendable  
21          manner, often under dangerous and difficult  
22          circumstances, will continue to be our best  
23          resource as we meet our mission.

24                     The Governor's budget positions the

1 department for success, while continuing to  
2 address the dramatic decline in the  
3 population, to the benefit of the entire  
4 agency, as well as the taxpayer.

5 Thank you, and I will be happy to  
6 answer any questions.

7 (Pause.)

8 CHAIRWOMAN KRUEGER: Our first  
9 questioner will be Senator Julia Salazar, the  
10 new chair of Crime, Crime Victims and  
11 Corrections.

12 SENATOR SALAZAR: Thank you, Chair.

13 And thank you very much, Commissioner,  
14 for joining us today and taking the time to  
15 testify.

16 I wanted to begin by asking you about  
17 racial disparities in parole denials and in  
18 solitary confinement. There was a New York  
19 Times investigation in 2016 that documented  
20 pretty astounding racial bias in New York's  
21 prisons, particularly bias in the use of  
22 solitary confinement and in parole denials  
23 that had prompted the Governor at the time to  
24 announce an investigation.

1           Recently in December, the Times Union  
2           issued a report showing that these same  
3           racial disparities in parole denials and  
4           solitary confinement had actually increased  
5           since the 2016 report. Now we're in 2021,  
6           it's been more than four years since the  
7           Governor initially announced that there would  
8           be an investigation.

9           Would you be able to inform us why  
10          findings haven't been issued from such an  
11          investigation and any other action that's  
12          been taken since then specifically to address  
13          the Parole Board's racially disparate release  
14          rates?

15          ACTING COMMISSIONER ANNUCCI: Senator,  
16          first of all, thank you for that question.

17          Let me begin by saying I have been  
18          around since 1984, 36 years plus. And in my  
19          entire tenure with the state, as with this  
20          agency, this is the most diverse Parole Board  
21          that we have. And I know the chairwoman very  
22          well. She's a person of integrity and  
23          character. I know at least 11 members are  
24          considered to be minority. I know she is

1 very active in initiatives with me. She is  
2 the cochair of my Commissioner's Diversity  
3 Management Advisory Council, which is  
4 dedicated to increasing diversity throughout  
5 the ranks of our agency. I know that she is  
6 very engaged, and I know that if you're going  
7 to do any type of study, you have to be able  
8 to compare apples to apples and oranges to  
9 oranges.

10 In order for you to ascertain whether  
11 or not there's any potential racial  
12 difference in decision-making, you have to  
13 have the full array of information before  
14 you. For example, you have to know whether  
15 or not someone has been incarcerated five or  
16 six times versus someone who's incarcerated  
17 for the first time on a burglary in the third  
18 degree conviction. That is not ascertainable  
19 from the information that may be available on  
20 a website.

21 One of the smartest laws we never  
22 passed in this state is "three strikes and  
23 you're in," so people can get repeatedly  
24 convicted as second felony offenders.

1           You also need to have access to a  
2 whole host of information that the Parole  
3 Board looks at which is not available on any  
4 public website. For example, what did the  
5 district attorney say, what did the defense  
6 attorney say, what did the sentencing judge  
7 say in response to solicitation records.  
8 What is the record while incarcerated? What  
9 is the disciplinary record? What did the  
10 crime victim submit?

11           So all of these factors are taken into  
12 consideration and considered. And therefore,  
13 you would really have to have a very, very  
14 carefully constructed research project that  
15 had access to a lot of different records in  
16 order to ascertain whether there is any  
17 potential racial impact.

18           And I will point out that one reason  
19 why our population is going down is that the  
20 Parole Board has significantly increased the  
21 rate at which people are released. This is  
22 well before COVID. In calendar years 2019  
23 and 2018 combined, right -- which was  
24 pre-COVID -- our population declined by

1            basically 6,000. So we've had that going on.

2            Then with respect to what we're doing  
3            in the disciplinary system, I have initiated  
4            a number of different training initiatives  
5            throughout our agency. Staff are mandated to  
6            take implicit bias, racial stereotyping and  
7            many other things.

8            I also have commissioned my research  
9            units to generate two different types of  
10           comprehensive reports, one of which looks at  
11           the assignments at each facility and the  
12           racial breakdown at each facility. And that  
13           comes in to my deputy commissioner for  
14           program services, and where we need to be  
15           better at assigning particular jobs, the jobs  
16           at each facility have to be balanced  
17           according to the racial population at each  
18           facility.

19           I also get a quarterly report from my  
20           research unit on overall statistical  
21           indicators of various types at a 5,000-foot  
22           level. And where corrective action is  
23           required, we do -- instruct the appropriate  
24           deputy commissioner to follow up. So we are

1 very much married to the concept of diversity  
2 and inclusion and fairness for everybody.

3 SENATOR SALAZAR: Thank you,  
4 Commissioner.

5 I want to preface this by saying that  
6 I may need to cut you off, and I apologize.  
7 I mean no offense. If I cut you off, it is  
8 only because my time is limited.

9 I want to talk a little bit about  
10 solitary confinement. In November, just a  
11 few months ago, the Partnership for the  
12 Public Good released a report demonstrating  
13 that if the HALT Solitary Confinement Act  
14 were implemented, it would actually yield  
15 New York State a net savings of \$132 million  
16 each year. I mention this because we  
17 previously heard from the current  
18 administration that contrary to this, the  
19 Executive claims there would be a fiscal cost  
20 to implementing these same changes that are  
21 outlined in the -- changes to the use of  
22 solitary confinement and the length of time.

23 My question is, in your capacity do  
24 you have an assessment of the HALT bill or on

1           its proposed limits to the use of solitary  
2           confinement and whether it would in fact have  
3           a fiscal impact or cost or savings to the  
4           state?

5                     ACTING COMMISSIONER ANNUCCI:  Senator,  
6           normally -- I can't comment on pending  
7           legislation, but there are several things  
8           that I can point out.

9                     First, I have firsthand experience of  
10          what it's like to be confined in a special  
11          housing unit cell in a maximum security  
12          prison.  I did it almost as an undercover  
13          operation back in December.  We selected a  
14          facility; the superintendent was simply told  
15          be prepared for two high-level, high-profile  
16          individuals.  Myself and my executive deputy  
17          commissioner, we went in dressed in inmate  
18          uniforms, and we stayed there for 24 hours.  
19          So I got to see firsthand all the different  
20          actions, interactions that are there with all  
21          the different staff, from being screened by  
22          the nurse, from the counselor that comes by,  
23          having the tablet, listening through  
24          headphones in the exercise pen, the whole



1 nine yards. And I can go into a lot further  
2 detail.

3 But the big thing is that we would  
4 have to spend a lot of money to transfer  
5 people after 15 days to RRUs, which are being  
6 constructed as we speak. That movement can  
7 be very costly and very disruptive. It's  
8 disruptive to an incarcerated individual to  
9 suddenly have to leave the facility. If you

10 are someb1 0 vJETBT 0 0 1 326.14(1e)7dBTT4(al)ts(f)9(te)7( a) ( y)7(ou)r( t)c

1           where we will be with the RRUs, including  
2           tablets where you can speak to your family  
3           for up to six hours a day from a segregated  
4           confinement cell. That is a privilege that  
5           you don't get in general confinement.

6                     SENATOR SALAZAR: Thank you.

7           I want to ask more about COVID-19 in  
8           DOCCS. Given that jails and prisons are  
9           congregate settings -- and I appreciate that  
10          you mentioned in your testimony that density  
11          has been reduced, but I think we can probably  
12          agree that DOCCS facilities are congregate  
13          settings -- when can we expect all of the  
14          people, not just based on their age, but all  
15          people who are currently incarcerated to  
16          become eligible for receiving the COVID-19  
17          vaccine? And when they are granted  
18          eligibility, is there a plan by DOCCS or DOH  
19          for rolling out vaccinations?

20                    ACTING COMMISSIONER ANNUCCI: Well,  
21          Senator, we have been in partnership with DOH  
22          since the very start of this pandemic, and  
23          they have guided every step that we have  
24          taken, including how we would roll out

1           vaccinations. And it's a lot of work to do  
2           that. We have 27 teams of people that were  
3           assembled, ready to go to the facilities. We  
4           have OSI staff that are ready to transport  
5           the vaccine. We had to survey all of the  
6           staff to see who would be interested. We had  
7           to deal with the medical people in 1-a, the  
8           correctional staff, including community  
9           supervision staff, in 1-b. We had to find  
10          where the elderly are, 65 and older. And  
11          then we had to transport the vaccines.

12                    And in order for us to get as many  
13          people to accept the vaccine who are  
14          incarcerated, instead of giving them  
15          information for them to just read, I had a  
16          member of my executive team and a health  
17          services person directly interview them and  
18          try and convince them to accept the vaccine.  
19          And so far, close to 80 percent have accepted  
20          the vaccine.

21                    We will have injected 4,000 vaccines  
22          this week. We will continue with that. We  
23          are next tackling the vulnerable population  
24          of a little over 3,000 medical problems that

1 we will get to. I can't give you a date when  
2 everybody will be vaccinated. I can tell you  
3 that as a matter of public health -- public  
4 protection and public health go hand in hand,  
5 so it's in everybody's interest to get there  
6 as soon as possible. I think the news that  
7 Johnson & Johnson has now been approved for  
8 vaccinations is a big, big step that will  
9 help all New Yorkers.

10 CHAIRWOMAN KRUEGER: Thank you,  
11 Commissioner. And Chair, I have to cut you  
12 off. Chair, you're entitled to five minutes  
13 for a second round of cleanup at the end.

14 With that, I'm turning it over to the  
15 chair of Corrections for the Assembly,  
16 Assemblymember Weprin.

17 ASSEMBLYMAN WEPRIN: Thank you,  
18 Chair Krueger, thank you, Chair Weinstein,  
19 for your leadership and patience during all  
20 these long hearings.

21 I just want to follow up just on what  
22 Senator Salazar brought up, because I just  
23 want to let you know, Commissioner, that  
24 Commissioner Zucker, the State Health

1 Commissioner, told the Democratic Conference,  
2 I think it could have been a month ago, that  
3 the intention was to inoculate with the  
4 vaccines everybody in the congregate setting,  
5 because it really applies to -- correctional  
6 officers, correctional employees, as well as  
7 incarcerated individuals are all part of that  
8 congregate setting. And he did say that the  
9 intention was to inoculate everyone, not just  
10 those over 65.

11 So I just wanted to point that out and  
12 I hope you'll get to that. Because just like  
13 nursing homes, there has been a huge spread  
14 to the whole system, as you know better than  
15 most.

16 A couple of questions. A couple of  
17 things you already touched on, so I will try  
18 not to be repetitive. But I know you're  
19 planning on closing Gowanda, Clinton and  
20 Watertown; you announced that in December.  
21 What steps are being taken, if any, to  
22 minimize the impact on the local economies,  
23 and what's happening to the staff and inmates  
24 currently at these facilities?

1           ACTING COMMISSIONER ANNUCCI: Well,  
2           one step at a time. The first thing is to  
3           actually close the facilities. And they'll  
4           close by March 31st.

5           My number-one immediate priority is to  
6           make sure that every one of the staff members  
7           at those three facilities have opportunities  
8           for employment elsewhere within our system.  
9           So I've dispatched our human resource staff,  
10          director of personnel, to meet personally  
11          with all of the staff that are affected at  
12          the different facilities, as well as the  
13          unions, and to carefully explain to them what  
14          their rights and options are.

15          So we're going to be moving a number of  
16          them in about two weeks, and then we'll continue  
17          after that. We're also gradually moving the  
18          incarcerated population out of there as well.  
19          That is a process that is much less complicated  
20          because we have thousands and thousands of  
21          vacancies throughout our entire system.

22          Ultimately, when the facilities are  
23          closed, we will maintain them at least in a  
24          fashion that they can be reused when and if

1 another purpose comes about. So we work with  
2 ESD, and if at some point one of them can be sold  
3 or used for a different purpose, we'll allow  
4 people to be brought on-site, we'll maintain them  
5 so that the infrastructure is preserved, and  
6 perhaps one of them may be sold or there may be  
7 an alternate purpose.

8 So we are always mindful of trying to do  
9 our best to leave the community with other  
10 options.

11 ASSEMBLYMAN WEPRIN: I appreciate  
12 that, Commissioner. And I appreciate the  
13 working relationship we've had for the last  
14 five years.

15 I'd love to hear about your undercover  
16 experience offline; I don't want to  
17 monopolize the time of this particular  
18 hearing. But I'll discuss that with you at a  
19 later date.

20 Something that came up in our  
21 Democratic conference as we were going over  
22 the budget the other day was the \$5 million  
23 for the Correctional Services Commissary  
24 addition. Can you give us a little more

1 detail on that? Because that came up in --

2 ACTING COMMISSIONER ANNUCCI: Yeah,  
3 basically that's a dry appropriation that's  
4 funded by the population themselves. And  
5 because each facility has its own independent  
6 commissary account, and because with things  
7 like loss of visitation more money is coming  
8 in from family members for them to be able to  
9 spend on things through the JPay account,  
10 et cetera, we needed to raise the  
11 appropriation so that we wouldn't have  
12 anybody that wouldn't be able to spend.

13 So that was something we increased I  
14 think a couple of years ago, and now we're  
15 raising it another 5 million.

16 ASSEMBLYMAN WEPRIN: Okay. I have a  
17 number of issues to cover, so I'm going to  
18 try to go through them quickly.

19 As you know, I've been a huge  
20 supporter -- and I think you have as well --  
21 for higher education in facilities. And  
22 obviously we're a little bit more limited  
23 during this COVID-19, but hopefully that will  
24 change.



1           As you probably know, I have a  
2           proposal for educational release, and I  
3           think that's something that you might  
4           support. Has there been any discussion about  
5           adding college programs and possibly having  
6           the educational release? And with the recent  
7           bill in Washington which basically, you know,  
8           provided additional TAP coverage for  
9           incarcerated individuals, I think that makes  
10          it even easier or, you know, more likely that  
11          we can expand some of these prison programs.

12                 Can you just elaborate on that and how  
13          the TAP could help that?

14                 ACTING COMMISSIONER ANNUCCI: Okay.  
15          Very quickly, Assemblyman, yes, thank you. I  
16          really appreciate your support for higher  
17          education. I strongly believe in education  
18          for a lot of different reasons, primarily  
19          because it's transformative. We have totally  
20          different people once they get through  
21          education.

22                 We presently have about 21 different  
23          outside colleges delivering services at  
24          30 different facilities. And we always would

1 love to expand and include more. There's  
2 about 15,000 individuals in our system that  
3 have high school diplomas already, so they  
4 could move on to higher education if  
5 possible.

6 I was very pleased to see the  
7 Pell Grant restored at the federal level. I  
8 can tell you that the documentary that was  
9 made in our facilities, "College in Prison,"  
10 the Ken Burns documentary, four hours, that  
11 helped significantly. It showcased to the  
12 whole country the power of higher education  
13 behind bars in our system, and I think it was  
14 a big factor in why Congress restored  
15 Pell Grant funding.

16 As for your pending legislation,  
17 Assemblyman, I can't really comment on that.  
18 But obviously anything that furthers the  
19 linkages -- and if that's educational release  
20 that allows people to continue their  
21 education with colleges in the communities  
22 where they live, that's fine. We support  
23 anything that builds on secondary education  
24 in our institutions.

1 ASSEMBLYMAN WEPRIN: Thank you.

2 And just following up on the  
3 Parole Board and the diversity of the  
4 Parole Board, when I first came on as chair  
5 about five years ago, there were I think only  
6 somewhere between 10 and 12 parole  
7 commissioners. And we've obviously expanded  
8 that. We expanded, allowing it to go up to  
9 19 parole -- I agree with you that the  
10 diversity has expanded, and I know you and I  
11 have been part of that process.

12 My question for you is, how many  
13 vacancies do we have now? And I know we can  
14 go up to 19, and we really should try to fill  
15 all of those spots. How many vacancies are  
16 there now? And I know the board is much more  
17 diverse. And I actually had recommended one  
18 of my Corrections staffers, Tana Agostini,  
19 and she was one of those, and I think the  
20 state was the beneficiary, you know, of her  
21 service.

22 And if you could just kind of just  
23 elaborate on how many vacancies we have right  
24 now.

1           ACTING COMMISSIONER ANNUCCI: Sure.

2           We have 16 members of the board right now.

3           And one thing I'll just remind you  
4           about -- one is the population obviously has  
5           dramatically declined. When you go down  
6           11,000 in a little more than a year, that's a  
7           significant decline.

8           The second thing is a significant  
9           proportion of individuals incarcerated are  
10          serving determinate sentences, which means  
11          they don't get released by action of the  
12          Parole Board, they don't get interviewed  
13          before Parole, they're released at their date  
14          by operation of law. And so anybody with a  
15          drug offense or serving time for a VFO or a  
16          sex offense is serving a determinate  
17          sentence. They will not appear before a  
18          Parole Board for potential release.

19          ASSEMBLYMAN WEPRIN: Okay, thank you.  
20          My time is running out. I have a bunch of  
21          questions, and I will reserve the right to  
22          come back for the second time as chair.

23          But you talked about the reduction in  
24          overall prison population, significantly,

1 over the last few years. I just want to ask  
2 about double bunking. Is there still double  
3 bunking, meaning two to a cell, two residents  
4 to a cell currently in use? And if so, why,  
5 since the prison population has been  
6 significantly reduced.

7 ACTING COMMISSIONER ANNUCCI: Well,  
8 first, for those double cells that had been  
9 in operation when we were very overcrowded  
10 and we had to convert a number of single  
11 cells in 16 of our maximum-security  
12 facilities -- they've all been taken down,  
13 with very few exceptions. There's a very  
14 limited number in Auburn; I doubt if they're  
15 filled right now. And there's a very limited  
16 number, I think, in Downstate. And I think  
17 the others -- that would be it. So those  
18 have been taken down.

19 But then you have the double cells  
20 that were constructed as double cells at  
21 places like Five Points and Upstate  
22 Correctional Facility, in our S blocks. Now,  
23 to the extent that there are instances where  
24 some of them will be two in a cell, yes, that

1 still exists. But it has been significantly  
2 decreased with the significant reduction in  
3 the population.

4 ASSEMBLYMAN WEPRIN: Thank you. I'm  
5 running out of time, so I'll come back. And  
6 let me just ask one more question --

7 CHAIRWOMAN KRUEGER: Quickly. You're  
8 not going to have any time to get an answer.

9 ASSEMBLYMAN WEPRIN: Okay. Well, you  
10 know what, it's been a pleasure working with  
11 you these last five years.

12 I'll come back for the five minutes  
13 for some of my other questions. How's that,  
14 Chair?

15 CHAIRWOMAN KRUEGER: That's perfect.

16 ASSEMBLYMAN WEPRIN: Thank you.

17 CHAIRWOMAN KRUEGER: Thank you.

18 And our next questioner is  
19 Jamaal Bailey for five minutes, chair of the  
20 Codes Committee.

21 SENATOR BAILEY: Thank you,  
22 Madam Chair.

23 Acting Commissioner, good to see you.

24 Chair Salazar mentioned a lot of the

1 conversation that I wanted to do, and she  
2 touched on it, and I think she'll touch on  
3 more of it in her second round, as related to  
4 the response as related to COVID.

5 But I wanted to double down on what  
6 Assemblymember Weprin was talking about as  
7 related to education for individuals who are  
8 currently incarcerated. You mentioned the  
9 documentary related to the Bard Prison  
10 Initiative and the restoration of the  
11 Pell Grant at the federal level, which is  
12 great news.

13 I was wondering, are there steps that  
14 we can take, in your opinion, that we can do  
15 to further put pressure on getting TAP back  
16 for individuals who are incarcerated?

17 ACTING COMMISSIONER ANNUCCI: That's a  
18 difficult question, Senator.

19 Obviously we're in an enormous  
20 situation with the budget. I mean, we all  
21 have heard the reports; we know what it's  
22 done. I think the Budget Director is very  
23 hard-pressed to find additional funds for  
24 anything without cutting something else.

1           I think for the most part, if you want  
2           to show support, at least, we'd love to have  
3           you at our college graduations. Come and  
4           help give support to the population. It's  
5           really an uplifting event when we have  
6           graduations and men and women are dressed up  
7           in caps and gowns and the family members are  
8           in the audience. And we've gotten some named  
9           speakers, people like Whoopi Goldberg and  
10          Bill Whittaker from "60 Minutes" and Cardinal  
11          Dolan.

12                 So come to a college graduation and  
13                 really see what the end result is from  
14                 College Behind Bars. It's very uplifting.

15                 SENATOR BAILEY: Certainly. If we're  
16                 really talking about actual rehabilitation,  
17                 this is a huge step in that direction towards  
18                 incarcerated individuals being able to resume  
19                 normalcy once they are no longer  
20                 incarcerated.

21                 But I guess the next question I would  
22                 have is related to individuals who are  
23                 working while incarcerated. Generally,  
24                 what's the average hourly rate in number of



1 hours that an incarcerated individual would  
2 work each week?

3 ACTING COMMISSIONER ANNUCCI: It  
4 depends, Senator. It depends upon a  
5 particular grade. The highest-graded worker  
6 can make probably a little more than a dollar  
7 a day if he's in a high-earning correctional  
8 industry job. But it all depends upon the  
9 particular job.

10 And I'm very sensitive to the wages  
11 issue. I think it's an important  
12 conversation to have. And it's one of the  
13 things that in order to try and at least help  
14 offset the low wages, we keep the population  
15 harmless as best we can with things like  
16 having very, very low rates for telephone  
17 calls, for secure messages on our tablets.  
18 We make sure the vendor keeps us among the  
19 lowest in the country. We'll never charge  
20 sales tax for anything. We did supply the  
21 tablets free of charge to them. We're never  
22 going to ask for a copay for medical care.

23 So while we're dealing with this  
24 period when we may be restricted, because of

1 budget constraints, from raising wages, I'm  
2 very sensitive to it and am trying to at  
3 least have other things to take their place.

4 SENATOR BAILEY: Okay. And generally  
5 speaking, how much does DOCCS spend paying  
6 people that work in prisons, generally  
7 overall?

8 ACTING COMMISSIONER ANNUCCI: By an  
9 hourly wage?

10 SENATOR BAILEY: No, in total. Like  
11 what is DOCCS's outlay like for paying  
12 individuals who are incarcerated that work in  
13 prisons?

14 ACTING COMMISSIONER ANNUCCI: (Aside.)  
15 Do we know?

16 Yeah, we'll get back to you, Senator.  
17 I just don't have that off the top of my  
18 head.

19 SENATOR BAILEY: Sure. No problem.  
20 As my time is running low, I want to talk  
21 about medication-assisted treatment. I'm the  
22 sponsor of a bill to expand that. And as you  
23 know, I think it's critical, especially with  
24 us being in an opioid crisis, still within

1 the throes of an opioid crisis. How many  
2 facilities again in the state provide MAT  
3 currently?

4 ACTING COMMISSIONER ANNUCCI: Oh, it's  
5 about seven or eight at this point. We were  
6 really building our capacity until obviously  
7 COVID really put a damper on everything. We  
8 have methadone and buprenorphine at a number  
9 of facilities -- off the top of my head, it's  
10 Bedford, it's Downstate, I think Elmira,  
11 Marcy.

12 We have Vivitrol at a number of  
13 facilities. And we also have naloxone, which  
14 obviously is important for overcoming  
15 overdoses. And it's part of transitional  
16 services, and any individual being released  
17 who will willingly accept the kit, we'll give  
18 it to them and hopefully they can potentially  
19 save a life in the community.

20 SENATOR BAILEY: Sure. So I guess my  
21 final question is related to segregated  
22 confinement. And I know Senator Salazar  
23 spoke incredibly well on that earlier, and I  
24 would echo those sentiments that we should do

1 anything we can to reduce that.

2 But as it is right now, what are the  
3 total number of infractions that are issued  
4 for people violating rules each year? And  
5 then what's the result of being placed in the  
6 SHU after those violation results?

7 ACTING COMMISSIONER ANNUCCI: Okay.

8 So basically like the Penal Law, our  
9 disciplinary system has three tiers --  
10 Tier 1, Tier 2, Tier 3. And I can give you  
11 the total number of -- {Zoom glitch} -- for  
12 each one. You can't go to SHU for a Tier 2,  
13 and a Tier 1 is almost like a violation --  
14 you get punished, but you don't get any kind  
15 of record that could come back and haunt you.

16 Tier 3 is the one where you can get a  
17 recommended loss of good time, keeplock  
18 confinement or segregated confinement.

19 But we have significantly modified the  
20 offenses that could result in a Tier 3  
21 outcome. So we've moved a number down to  
22 Tier 2. And in fact, a snapshot on  
23 January 1st of this year, compared to a year  
24 ago, there's something like 400-and-some-odd

1 less people in SHU. So we are clearly moving  
2 away from that direction.

3 There's a number of things that we had  
4 agreed to with the NYCLU settlement  
5 agreement, including the requirement that we  
6 tier at the lowest level, that the review  
7 lieutenant reviews that and makes sure it's  
8 the least tier for the particular act of  
9 misbehavior that's involved. Many other  
10 things that we do that have really  
11 ameliorated who goes to SHU or -- and how  
12 long they stay there. And keeplock as well.

13 SENATOR BAILEY: Well, I see that my  
14 time is up, and thank you, Chair, for the  
15 opportunity.

16 And thank you, Acting Commissioner.

17 CHAIRWOMAN KRUEGER: Sorry. I was on  
18 mute. If you would, Commissioner, get me and  
19 Helene the information you were just  
20 describing, the charts showing the Tiers 1,  
21 2, 3, what the categories are that actually  
22 fall into a 3, and the numbers of people now  
23 going to the SHUs under these new rules. I  
24 think everyone will be very interested in

1           seeing the data. Okay?

2                   ACTING COMMISSIONER ANNUCCI: Sure.

3                   CHAIRWOMAN KRUEGER: Thank you.

4                   And next we have Assemblymember  
5 Palmesano, who is serving as the ranker for  
6 today and gets five minutes.

7                   ASSEMBLYMAN PALMESANO: Thank you,  
8 Commissioner, for being here.

9                   I want to kind of get at talking about  
10 the prison closures a little bit. That's  
11 something of great concern to myself and a  
12 number of my colleagues.

13                   Certainly I've seen -- you know, the  
14 Governor has taken a lot of credit, proud of  
15 the number of prisons he's closed in his  
16 tenure. I believe with the three recently  
17 announced, that would be 20 facilities. But  
18 what he seems to fail to do is to take  
19 responsibility for the dangerous powder-keg  
20 environment these closures and some of his  
21 other policies have created in these  
22 correctional facilities, like restricting the  
23 use of special housing units -- and I call  
24 them special housing units, not solitary

1 confinement.

2 Even by DOCCS' own website,  
3 inmate-on-staff assaults are up over  
4 38 percent over the past five years.  
5 Inmate-on-inmate assaults are over a thousand  
6 per year over the past five years -- I think  
7 it's a 31 percent increase since 2015. So  
8 we're really jamming more and more inmates  
9 into fewer facilities, especially in this age  
10 of COVID.

11 The other area I want to just talk  
12 about really is this whole fast-tracking of  
13 these prison closures, 90 days. I really  
14 believe, as a number of my colleagues do,  
15 this is really a lack of respect to these  
16 families and communities who have been  
17 totally disrupted by these closures, and it's  
18 really adding insult to injury. No time for  
19 planning or preparation. And so this is like  
20 seven prisons that will be closed within a  
21 90-day period over these past two budgets.  
22 It's difficult enough. It's not enough time  
23 for a family to plan for moving, to relocate  
24 for schools and homes. It's just not

1 appropriate. And especially in this era of  
2 COVID.

3 We really should be rejecting any  
4 measure to close a facility within 90 days.  
5 The statute calls for one year.

6 But I do want to talk about the prison  
7 closure. I know in this budget he's talked  
8 about a two-year period. That creates more  
9 uncertainty. So have you identified how many  
10 prisons you might be looking at as far as for  
11 closure -- mediums, maximums, you know,  
12 number of beds? You know, how many prisons  
13 are you talking about, do you have any idea  
14 right now?

15 ACTING COMMISSIONER ANNUCCI: We're  
16 basically looking at closing the equivalent  
17 of prisons that would amount to 1800 beds.  
18 In that neighborhood, Assemblyman.

19 ASSEMBLYMAN PALMESANO: Would that  
20 involve mediums, maximums, both?

21 ACTING COMMISSIONER ANNUCCI: We  
22 haven't made a final decision yet. There are  
23 a lot of diff2Tc(i)7(i)7(n136BDC BT n )7( )7(cl)7( a)7(of)s( )7(ar)h( l)7



1           may. It's the toughest decision to do, to  
2           close --

3                     ASSEMBLYMAN PALMESANO: I understand.

4                     ACTING COMMISSIONER ANNUCCI: I do not  
5           underestimate the impact on the staff or the  
6           surrounding communities. But --

7                     ASSEMBLYMAN PALMESANO: I know you  
8           understand that, but I just -- it's still a  
9           concern. Because I guess even in this age of  
10          COVID, what practical matter does it mean to  
11          jam more and more inmates into fewer  
12          facilities and lesser space?

13                    I do want to talk about the issue of  
14          violence. I mean, how high is the violence  
15          in our facilities? We already talked about  
16          38 percent. And the contraband numbers, you  
17          know, the drug numbers, drugs getting into  
18          our facilities, over 4,000 incidents in each  
19          of the past five years, before the  
20          administration in DOCCS is going to implement  
21          meaningful reforms instead of taking away  
22          resources like the ability to use special  
23          housing units.

24                    I mean, where is the Secure Vendor

1 Program? Several years ago that was a  
2 program you had in place -- that started out  
3 and you canceled it abruptly -- to help  
4 screen these drugs getting into our  
5 facilities. I have not been made aware of  
6 any new facility or program that you're  
7 utilizing to deal with the screening of these  
8 programs. Where does that stand? What about  
9 the use of K-9 units at every facility?  
10 Where does that stand?

11 ACTING COMMISSIONER ANNUCCI: Well,  
12 you asked a lot of things. Let me try and  
13 answer them one by one.

14 First, 75 percent of the assaults  
15 happen in maximum-security facilities. We  
16 haven't touched maximum-security facilities.  
17 The facilities that are closing are medium.

18 Second, we have thousands and  
19 thousands of vacant beds throughout. You  
20 can't possibly say that we're jamming people  
21 when we're closing facilities.

22 Third, the Secure Vendor Package  
23 Program is something that's very important  
24 that I want to get back to. I had to stop it

1           when we got hit with COVID. We learned from  
2           the first misstep, and I'll take full  
3           responsibility for that. We've met with the  
4           advocates, we've met with the unions, they've  
5           given us positive feedback. We've gotten  
6           feedback from the superintendents.

7                     I do want to get back to that. The  
8           presence of drugs is a significant concern.  
9           It's a health risk both for the population  
10          and for staff. I think ultimately getting to  
11          that will put us on the right track and help  
12          reduce drugs.

13                    But in the meanwhile, our staff are  
14          fantastic, in our package rooms, in  
15          discovering contraband that's secreted within  
16          cans of vegetables and fruits and things of  
17          that nature.

18                    So I can't agree that closure somehow  
19          is linked to violence at all. There's no  
20          connection whatsoever to that. Because we  
21          are at a level that we haven't seen since  
22          1984.

23                    ASSEMBLYMAN PALMESANO: One last quick  
24          question. Who is supervising --

1                   CHAIRWOMAN KRUEGER: No, sorry, you  
2                   can't throw up a question and an answer in  
3                   two seconds.

4                   ASSEMBLYMAN PALMESANO: Thank you.

5                   CHAIRWOMAN KRUEGER: It was a good  
6                   stab, though. I like that.

7                   (Laughter.)

8                   ASSEMBLYMAN PALMESANO: Thank you.

9                   CHAIRWOMAN KRUEGER: Sorry, my job is  
10                  to be mean here today.

11                  ASSEMBLYMAN PALMESANO: Fine.

12                  CHAIRWOMAN KRUEGER: Senator Borrello  
13                  next.

14                  SENATOR BORRELLO: Yes, thank you,  
15                  Madam Chair.

16                  Thank you, Commissioner.

17                  I represent the 57th Senate District,  
18                  and Gowanda is in my district. I have --  
19                  just wanted to bring up a couple of concerns.

20                  First of all, thank you for being  
21                  here.

22                  But there have been four requests put  
23                  in by the Gowanda Area Redevelopment  
24                  Corporation, and they've gotten a bit of the

1           runaround. And I understand sometimes the  
2           request is made to the wrong agency, but  
3           DOCCS did receive a request -- you know,  
4           you're claiming \$89 million in savings for  
5           closing these three facilities, so the  
6           request was made to see those savings and  
7           exactly where those savings are. And somehow  
8           they were notified that in order to produce  
9           that, it's going to take now until April 2nd.  
10          This is a request that went in in January.

11                         So my question to you is if you made  
12          the determination to close these facilities  
13          based on savings, then how could that data  
14          be -- take three months to procure and  
15          deliver to this FOIL request when that should  
16          have been what you used to make the  
17          determination? Shouldn't you just be able to  
18          pretty much instantly turn that over? Why  
19          would it take so long to show what savings  
20          would be made?

21                         ACTING COMMISSIONER ANNUCCI: Senator,  
22          I'll have to look into exactly what the  
23          response to that FOIL request -- you said it  
24          was a FOIL request submitted by --

1 (Overtalk.)

2 SENATOR BORRELLO: I'm sorry, it's the  
3 Gowanda Area Redevelopment Corporation. And  
4 it's been in to you since January 25th -- I'm  
5 sorry, the first response was from  
6 January 25th, and they're saying April 2nd.

7 ACTING COMMISSIONER ANNUCCI: Okay.  
8 Okay. I will look into that.

9 But basically the closure is all  
10 personnel that ultimately are relocating to  
11 other vacant positions throughout the system.  
12 So that, for example, the closures going  
13 forward are projected to reduce our overall  
14 budget fill level by 800 positions.

15 And so when you factor into that all  
16 the costs -- the fuel costs of maintaining a  
17 correctional facility, the sewage treatment,  
18 all those other costs -- they're complicated,  
19 but you come up with a number that basically  
20 says this is how we get to 89.

21 I don't know why they've said until  
22 April, but I'll follow up on that.

23 SENATOR BORRELLO: Yeah, because it  
24 was literally, you know, two days after the

1           prison is going to close, which is my  
2           concern.

3                        But let me also add that there's other  
4           factors there too. You may not be aware, and  
5           I don't expect you to be aware of this, but  
6           the Collins' facility heat system is supplied  
7           from the Gowanda facility. I don't know if  
8           you're aware of that or not. So when you  
9           start talking about savings based on labor,  
10          that's one thing. But you're going to have  
11          to maintain that facility in some manner.  
12          And also there was a brand-new infirmary, I'm  
13          told, at Gowanda, that there's going to be  
14          upgrades needed to Collins.

15                      So, you know, I'm a businessperson  
16          and, you know, you can't just look at one  
17          side of the equation. The other side is  
18          what's it going to take to maintain that  
19          facility or quote, unquote, mothball it and  
20          still have it there so that it can be used to  
21          supply heat to the Collins facility.

22                      So I'm just curious what that final  
23          number really looks like.

24                      ACTING COMMISSIONER ANNUCCI: We'll

1 get back to you on that, Senator. We are  
2 relocating an infirmary at the Collins, but I  
3 think it may be backwards about where the  
4 heat is coming from as well. So I'll get a  
5 final answer for you on that.

6 SENATOR BORRELLO: Thank you.

7 CHAIRWOMAN KRUEGER: Thank you.

8 Next up, Assemblymember Mark Walczyk,  
9 three minutes.

10 ASSEMBLYMAN WALCZYK: Thank you,  
11 Chairwoman. Appreciate it.

12 Acting Commissioner, you said you were  
13 very proud of the corrections officers that  
14 work for you and how they've acted during the  
15 pandemic. I appreciate that sentiment. I  
16 certainly am.

17 How did you come to announce prison  
18 closures for those COs and for their families  
19 four days before Christmas?

20 ACTING COMMISSIONER ANNUCCI: If  
21 you're asking why that particular timing,  
22 Assemblyman, it was not an easy decision to  
23 make. We were balancing a number of things.  
24 Had COVID never happened, we probably would



1           have announced June 1st, July 1st the latest.  
2           COVID happened; that complicated everything.

3                     And we're balancing, obviously, the  
4           decrease in the population, which is  
5           happening at a very rapid pace, something --

6                     ASSEMBLYMAN WALCZYK: I'm sorry, I  
7           only get three minutes, so I hate to cut you  
8           off there. But Chairmen Weprin brought this  
9           up in his question. He was talking about  
10          Watertown Correctional and the correctional  
11          facilities that you're shutting down here,  
12          which the Governor has the prerogative to do  
13          through you.

14                    You said in planning here, the first  
15          thing you have to do is close the facility.  
16          I would disagree. I think your job, whether  
17          acting commissioner or commissioner, would be  
18          to create a reasonable plan for prison  
19          closure and communicate that plan. Your next  
20          would be to take care of the employees that  
21          are under your department. And then the  
22          following would be to take care of the  
23          inmates and make sure that everybody is  
24          safely done there.

1           Leaders plan. So the next phase is  
2 not close the facility and then figure out  
3 what happens next.

4           But I wanted to talk to you about  
5 safety and staffing of facilities, since you  
6 brought that up as well. You said safety of  
7 staff and facilities is of paramount  
8 importance. Is urinalysis a key component of  
9 that?

10           ACTING COMMISSIONER ANNUCCI: Yes, we  
11 look at everything. We look at how things  
12 are working at the facility, we look at the  
13 infrastructure, we look at the capital, we  
14 look at the proximity to other facilities  
15 where we can move staff. Most of all, we  
16 look at the actual infrastructure of the  
17 facility itself and what the costs are --

18           ASSEMBLYMAN WALCZYK: You may recall,  
19 Commissioner, back in September, on  
20 September 1st, a number of us legislators  
21 penned a letter to you asking that you  
22 reinstate the urinalysis program because of  
23 the danger that drugs in our facilities pose  
24 to both COs and inmates.

1           You took two months to respond, and in  
2           your response on October 28th of last year  
3           you said you were working as expeditiously as  
4           possible -- those were your words in that  
5           letter. Your staff then in last December  
6           said that the urinalysis program would start  
7           in January, which would be last month.

8           Do you have a urinalysis program that  
9           is running in all of your facilities now?

10           ACTING COMMISSIONER ANNUCCI: We have  
11           an urinalysis program that's an interim  
12           measure with a vendor that can -- if there's  
13           reasonable suspicion to believe that someone  
14           has taken drugs, we will have that test done  
15           for this interim period.

16           We have selected two new vendors, one  
17           an outside lab, one a supplier of the tests.  
18           We have sent out distribution of the kits to  
19           every facility. We are ready to implement.  
20           It will probably be done -- I'm almost sure  
21           it will be done before the end of this month.

22           So understand that when you're dealing  
23           with things like COVID and vaccinations and  
24           relocating staff, to stick to a schedule is

1 not the easiest thing.

2 ASSEMBLYMAN WALCZYK: Obviously I  
3 would love more time, Commissioner, but mine  
4 has expired. You'll be hearing from me soon.

5 CHAIRWOMAN KRUEGER: Thank you very  
6 much.

7 The next questioner is Latrice Walker.

8 Are you still with us, Latrice?

9 Perhaps not.

10 Oh, there she is. Hello.

11 ASSEMBLYWOMAN WALKER: All right. So  
12 thank you. Thank you so much for your  
13 testimony this afternoon.

14 I have of course -- I want to  
15 associate my comments with my colleagues who  
16 spoke to you about solitary confinement.  
17 Particularly I was told, when I first got  
18 elected, that 25,000 people were going to be  
19 returning home to my district between 2015  
20 and 2020. And so I'm pretty much about at  
21 Year 5 now, and the level of support that is  
22 needed for so many individuals who have gone  
23 through such volatile incarceration  
24 conditions is -- it definitely feeds the

1           supportive housing community within my  
2           neighborhood, and a lot of folks are really  
3           left without a lot of supportive services.

4                       And so I really think that the  
5           detrimental effect that this type of housing  
6           unit has had on our communities has been  
7           troublesome. So I would like for you to take  
8           a look at that.

9                       Of course I also associate myself with  
10          comments with respect to elder parole and  
11          releasing people who have paid their debt to  
12          society and are behind bars.

13                      But I had an opportunity to visit the  
14          Queensboro facility recently, and I think  
15          that that type of facility is really  
16          necessary for most people who are  
17          transitioning out of the upstate criminal  
18          justice system. But I've noticed that a lot  
19          of facilities were closing down, including  
20          Arthur Kill and a few other facilities in  
21          New York City. But I know -- I think  
22          Edgecombe is still there.

23                      What do you think about maybe allowing  
24          some reentry services to be utilized for --

1 in order to help people to facilitate their  
2 reentry back into our communities?

3 I also want to just say that this --  
4 the pay situation with respect to the  
5 tablets, I think I'd like to discuss that  
6 with you. Because during COVID, as you know,  
7 that was some of the only solace that many  
8 people who are incarcerated sort of had as  
9 they went through that whole process. And  
10 having it be based on, you know, people  
11 sending them money or a pay schedule seems to  
12 have been problematic. So I want to talk to  
13 you about that.

14 But -- and as well as, of course, that  
15 by vaccination, as we've seen happen in the  
16 federal court system.

17 But I did want to hear -- and also  
18 about your thoughts on voting rights of  
19 people who are presently on parole and what  
20 the process and procedure is with respect to  
21 providing voter registration cards,  
22 et cetera, and registering those people to  
23 vote as they're walking out of your doors.  
24 In a nutshell.

1                   ACTING COMMISSIONER ANNUCCI: You have  
2 a lot there --

3                   ASSEMBLYWOMAN WALKER: Well, we can  
4 follow up later on in the 20 seconds that you  
5 have left.

6                   ACTING COMMISSIONER ANNUCCI:  
7 (Laughing.) Okay, a lot there.

8                   First of all, the whole reason or a  
9 big reason why the Governor merged our former  
10 agency and the Division of Parole is he  
11 wanted a seamless transition, he wanted  
12 people to have a smooth hand-off when going  
13 from an institution to the community. And he  
14 felt putting us all under one agency has  
15 really helped further that, because we -- all  
16 staff, we can prepare better, we have  
17 transitional services, we can identify  
18 housing, we give people Social Security  
19 cards, birth certificates, they get free  
20 access to their rap sheet to prepare for job  
21 interviews, et cetera.

22                   The fundamental purpose of the  
23 Penal Law changed to include reintegration as  
24 a fundamental purpose. The Governor created

1 the Reentry Council to focus on those issues  
2 and to remove obstacles. We have staff that  
3 are called reentry managers that are devoted  
4 to hooking up free services. We have reentry  
5 councils at a number of different counties,  
6 and I'm sure in your county as well, where we  
7 work with the local officials to hook up  
8 individuals with services.

9 The Governor has issued pardons to  
10 thousands and thousands -- I can get you the  
11 total number of individuals -- to make them  
12 immediately eligible to vote. So before they  
13 even walk out the door, I give to them  
14 information -- well, at least those that are  
15 maxing out -- on the importance of voting and  
16 how to register to vote. If they get the  
17 pardon when they report to the parole office,  
18 they're given that information, they're  
19 explained how to register to vote.

20 You already passed a statute back in  
21 2009, I think it's 75 of the Correction Law  
22 that says if someone is maxing out, that's  
23 when they're immediately eligible to vote.  
24 So we give them that information on



1           registering, the importance of voting. And  
2           then if they're on parole and they're about  
3           to get discharged, we give it to them. But  
4           before that even happens, with the Governor  
5           giving pardons to so many, they're eligible  
6           to vote, they're informed of that, and they  
7           have written materials to explain that to  
8           them.

9                     ASSEMBLYWOMAN WALKER: Thank you.

10           I'll follow back up with you on some of my  
11           other questions, but I did want to highlight  
12           reentry housing is so very important. And I  
13           could totally use your help on facilitating  
14           that.

15                     ACTING COMMISSIONER ANNUCCI: Sure.

16                     CHAIRWOMAN KRUEGER: Thank you.

17                     We've been joined by Senator Pete  
18           Harckham, and it's his time to ask questions.

19                     SENATOR HARCKHAM: Thank you very  
20           much, Madam Chair.

21                     Commissioner, thank you for your  
22           testimony.

23                     I want to align my comments with those  
24           of Senator Bailey. I chair the Committee on

1 Alcoholism and Substance Abuse and cochair  
2 the Senate Task Force on Opioids. And we  
3 know from families, from treatment advocates,  
4 from recovery advocates that there are scores  
5 and scores and scores of our inmates who are  
6 not getting the treatment they need.

7 I know you've made some strides, but  
8 inmates coming out of incarceration without  
9 medication-assisted treatment are among the  
10 highest risk for overdose death because they  
11 still have the cravings, and when they come  
12 out and they use, their body no longer has  
13 the tolerance, and we end up losing a lot of  
14 them. It's also one of the number-one  
15 reasons for recidivism.

16 So, you know, I implore you to work  
17 with us. I know you've done some things.  
18 But whether it's Senator Bailey's bill or we  
19 do it, you know, in-house through the  
20 process, we really need to do more because we  
21 know there are scores and scores of people  
22 who are incarcerated who are not getting the  
23 treatment that they so desperately need.

24 ACTING COMMISSIONER ANNUCCI: I

1           totally agree with you in terms of the  
2           importance of MAT. We've expanded that. We  
3           have a wonderful partnership with OASAS. We  
4           have an application in to try and become the  
5           first corrections-based certified OTP. That  
6           is something that I think could really expand  
7           treatment.

8                     Right now we have an initiative where  
9           somebody who's already on MAT, namely  
10          methadone and buprenorphine, and their  
11          sentence is two years or less, they can come  
12          into our system and be maintained on that and  
13          then continue it in the community.

14                    But COVID obviously put a huge damper  
15          on everything. So I look forward to, when  
16          COVID's in the rear-view mirror and we can  
17          build upon the good work that we've already  
18          done and expand upon it, including MAT.

19                    SENATOR HARCKHAM: All right. I look  
20          forward to offline working closely with you  
21          on this, because I think it's an important  
22          step that we need to take.

23                    CHAIRWOMAN KRUEGER: Thank you very  
24          much, Senator.

1                   Next from the Assembly, Linda  
2 Rosenthal.

3                   ASSEMBLYWOMAN ROSENTHAL: Hi. Hi,  
4 Commissioner. Good to see you.

5                   Last year we went over the MAT in  
6 prisons, when I was chair of the Committee on  
7 Alcoholism and Drug Abuse -- now I'm  
8 Social Services chair -- and I asked you  
9 questions about the availability of MAT in  
10 prisons and jails. And the bill that  
11 Senator Harckham referenced of  
12 Senator Bailey, I have the Assembly version.

13                   Last time I think you said there were  
14 maybe six prisons statewide that had a MAT  
15 program. How many do you have right now?

16                   ACTING COMMISSIONER ANNUCCI: It's  
17 more than that. And at one time it also  
18 included PDPs for the Vivitrol.

19                   And I can't -- I can't think of them  
20 all. I don't want to give you  
21 misinformation, Assemblywoman, so let me  
22 count. But it's at least eight, from my  
23 recollection.

24                   ASSEMBLYWOMAN ROSENTHAL: But how many

1 prisons are there?

2 ACTING COMMISSIONER ANNUCCI: Right  
3 now there are 52, but two are closing, plus  
4 the Clinton Annex.

5 ASSEMBLYWOMAN ROSENTHAL: Okay. So  
6 that's really quite a -- you know, not a  
7 great ratio when we have the tools to make  
8 sure that people can recover from addiction  
9 when they're ready to.

10 And I see that the Governor cut the  
11 funding for jail-based MAT by a tremendous  
12 amount, by 50 percent, saying that, you know,  
13 people have been let out of jails and prisons  
14 so there's not such a need.

15 What's your view on that?

16 ACTING COMMISSIONER ANNUCCI: Well,  
17 the reality is that the population is  
18 significantly reduced at the jail level and  
19 at the state level.

20 When you look at our population and  
21 you measure basically a one-year decline in  
22 five figures, that's astounding. It took  
23 from 1981 to 1999 to increase by 50,000. In  
24 three years, we've decreased by 17,000.

1           So that has ramifications for a lot of  
2 different things, including what your  
3 ultimate needs will be for all kinds of  
4 things, like mentally ill inmates and --

5           ASSEMBLYWOMAN ROSENTHAL: I  
6 understand. I understand. But we've really  
7 not made much progress since last year, and  
8 that's shameful, because people will die --  
9 people who leave will die because of the  
10 overdose effect when you're -- you understand  
11 all that.

12           And I think that the state really  
13 needs to prioritize that because we have  
14 solutions, we have treatments, we have a  
15 toolkit, and we're just not using it.

16           I'd like to ask you about women's  
17 health in prisons. Women who are  
18 incarcerated have complained about a lack of  
19 access to healthcare services, prenatal care,  
20 trauma-informed care, and many other aspects.

21           Are the staff in your facilities  
22 provided any particular training on the  
23 health needs for women, particularly those  
24 who are pregnant?

1                   And before you answer, I'd like to say  
2                   I echo my colleagues' views on the vaccines,  
3                   elder parole and all of that. Thank you.

4                   ACTING COMMISSIONER ANNUCCI: So  
5                   obviously for the women we have many  
6                   different programs, many relationships with  
7                   outside volunteers that come in, and  
8                   specially trained healthcare staff to meet  
9                   all of their needs.

10                  I was very adamant that I don't want  
11                  in any way, shape, manner or form, for any of  
12                  our female population to feel neglected. So  
13                  if you go to Bedford Hills or you go to  
14                  Taconic, you can see the nursery, you can see  
15                  the children's center, you can see the RMU,  
16                  the regional medical unit that we have to  
17                  care for prenatal and post-birth and many  
18                  other things that we do for them.

19                  I'd like you to just come and see for  
20                  yourself what we do. But it is very, very  
21                  important --

22                  CHAIRWOMAN KRUEGER: Thank you --

23                  ASSEMBLYWOMAN ROSENTHAL: I  
24                  certainly -- certainly would. One last --

1 one last --

2 CHAIRWOMAN KRUEGER: No, no, no,  
3 you're way past zero. Sorry.

4 ASSEMBLYWOMAN ROSENTHAL: I see zero.

5 CHAIRWOMAN KRUEGER: Look at the  
6 clock. Look at the clock. Sorry.

7 ASSEMBLYWOMAN ROSENTHAL: I see zero.

8 CHAIRWOMAN KRUEGER: Nope, I know  
9 you're past zero.

10 ASSEMBLYWOMAN ROSENTHAL: Thank you.

11 CHAIRWOMAN KRUEGER: Assemblymember  
12 Byrnes.

13 ASSEMBLYWOMAN BYRNES: Thank you very  
14 much, Chair.

15 And I also want to thank the acting  
16 commissioner for being here and being so  
17 gracious with answering a lot of questions,  
18 and there's more to come.

19 I want to go in a little different  
20 route. I want to talk a little bit about the  
21 pause on -- and the moratorium on having  
22 state-ready prisoners sent from our local  
23 county jails to state facilities.

24 The reason I want to talk about this,



1 Commissioner, is because it has a big impact  
2 on our counties, both financially -- in  
3 Steuben County, it's about 2500 a day. And  
4 so we have a significant cost factor and  
5 also, at least in one case, we have an  
6 inmate that's ready, that is parole-eligible  
7 but he can't be reviewed until he gets to  
8 state prison. They can't review him while  
9 he's sitting in the jail, and he could  
10 potentially be home now.

11 Right now, just in Steuben County,  
12 there's 147 total inmates. Twenty-five --  
13 17 percent -- are state-ready. In  
14 Broome County, 414 total inmates, 76 are  
15 state-ready. That's 20 percent of their  
16 total capacity.

17 So my question, sir, is when you look  
18 at the impact of the cost of the moratorium  
19 on the counties, compounded by the fact that  
20 we could actually have inmates that could be  
21 released if they could just get transferred  
22 to prison to be processed out -- and also,  
23 sir, you've been talking at length about all  
24 the vacancies in the state prison system,

1           which don't exist in our county jails -- when  
2           we take all of these factors into  
3           consideration, sir, with the deepest respect,  
4           would you agree with me that this moratorium  
5           should be immediately lifted and at the very  
6           least the moratorium should be immediately  
7           lifted on a regional basis in areas like ours  
8           that do not have COVID concerns with  
9           transfers to state prison?

10                    ACTING COMMISSIONER ANNUCCI:

11           Assemblywoman, I take your concerns very  
12           seriously. We did not take this step lightly  
13           to stop intake. We're reviewing it every day  
14           with a view toward trying to reinstate it as  
15           soon as possible.

16                    The challenge with accepting  
17           state-readies means that we have to start  
18           movement throughout the entire system. You  
19           can't just accept people into reception  
20           centers and leave them there. You have to --  
21           it's like an assembly line; you go from  
22           reception centers to general confinement  
23           facilities, and that starts the movement  
24           among all 52 facilities.

1           So for the period that we had these  
2 spikes, which happen predictably, right after  
3 Thanksgiving and Christmas and New Year's and  
4 those holidays, we needed to stabilize the  
5 system. We are seeing good results now. The  
6 numbers are coming down. So we're going to  
7 meet very shortly to discuss this. But I'm  
8 sensitive --

9           ASSEMBLYWOMAN BYRNES: Will the  
10 moratorium not be extended? Can you promise  
11 it will not be extended anymore?

12           ACTING COMMISSIONER ANNUCCI: I can  
13 promise that we're going to give it very,  
14 very careful consideration, Assemblywoman.

15           CHAIRWOMAN KRUEGER: Thank you.

16           ACTING COMMISSIONER ANNUCCI: It's a  
17 difficult issue.

18           The one thing I can tell you is  
19 everybody gets reimbursed, either actual cost  
20 or \$100, for every state-ready that's not  
21 accepted within ten days of declaration of  
22 state-ready. There's additional funding  
23 that's in our budget to try and make the  
24 counties whole for that.

1 CHAIRWOMAN KRUEGER: Thank you both.

2 Next, Assemblymember Burdick.

3 ASSEMBLYMAN BURDICK: Thank you to the  
4 chairs and also to Deputy -- to Acting  
5 Commissioner Annucci.

6 And I want to thank you for your good  
7 work and the partnership that you have with  
8 the Town of Bedford in my district and work  
9 that you're doing on the early release  
10 program and so forth.

11 I do want to align myself with my  
12 colleagues who would like to see an expansion  
13 of early release and to get on a path to  
14 terminating solitary confinement.

15 That takes me to a question that  
16 Chair Weprin had raised about the impact on  
17 local economies of closures. And actually in  
18 Bedford there's, as you know, a shared  
19 service between the Town of Bedford and the  
20 department in which the department is a  
21 customer of the water and sewer district.  
22 And the closure of either of those facilities  
23 would have a devastating impact.

24 The question is whether there's any

1 plan for closure and whether there might be  
2 some carve-out of the 90 days with respect to  
3 that which -- that could be the only one in  
4 the state that has that kind of arrangement.

5 And another question I have, really  
6 unrelated, is that I'd like to get  
7 direction -- and we could do this offline --  
8 on who I could work with in terms of plans  
9 for solar and electric vehicle charging  
10 installations.

11 So if you could address those, that  
12 would be terrific.

13 ACTING COMMISSIONER ANNUCCI: So,  
14 Assemblyman, it's good to see you. We  
15 welcome you to your new position. We have a  
16 long working relationship with Bedford and  
17 the local officials, and you were one of  
18 them, and we value that relationship very  
19 much.

20 It's a slippery slope for you to ask  
21 me whether or not any of our 52 facilities --  
22 soon to be 50 facilities -- can be off the  
23 table for closure. Because if I answer your  
24 question, then somebody else is going to ask

1 a similar question about their facility, and  
2 it's just something I can't do.

3 But I can tell you that we only have  
4 one maximum-security facility for women in  
5 the state, and that's where most of the  
6 programs are. So if there are ever a set of  
7 circumstances where we would even consider  
8 that, there would be a lot that we would have  
9 to factor into.

10 The other issue is there's a lot of  
11 issues, a lot of initiatives that we're doing  
12 for the environment and clean energy. We  
13 have a whole arrangement with NYPA to put in  
14 electrical panels on our vacant property.  
15 And the idea that you suggest may be  
16 worthwhile; it depends upon the logistics.  
17 But one of our engineers in our facilities  
18 planning would be the person that you could  
19 have a liaison with to even discuss the  
20 logistics of whether that could be doable or  
21 not at various facilities.

22 ASSEMBLYMAN BURDICK: Is that  
23 Keith Rupert that I'd be working with?

24 ACTING COMMISSIONER ANNUCCI: He's one

1 of them. But he works under a deputy  
2 commissioner, so it would be both.

3 ASSEMBLYMAN BURDICK: Thank you so  
4 much. And again, thank you for the very  
5 positive collaboration and partnership.

6 ACTING COMMISSIONER ANNUCCI: Sure.

7 CHAIRWOMAN KRUEGER: Thank you very  
8 much.

9 Our next questioner is Assemblymember  
10 Harvey Epstein.

11 ASSEMBLYMAN EPSTEIN: Thank you,  
12 Commissioner. Appreciate your time.

13 I know a lot of -- some of my comments  
14 my colleagues already mentioned to you, about  
15 solitary confinement and how the HALT bill  
16 will save money. I hope you will consider,  
17 you know, that savings, because that's a  
18 really critical thing. It helps people to  
19 get out of prison and will save us money.

20 The vaccinations for inmates, we do --  
21 we were given a commitment that it would  
22 happen at the same time as other folks in the  
23 prison system, and I hope that still goes  
24 forward.

1           I was at Green Haven just earlier this  
2 week, and I'll say that there were -- you  
3 know, there were floods in the -- by where  
4 the cells were, leaks, there were safety  
5 issues. You mentioned school programs, Bard  
6 has a program there. But with 1600 inmates,  
7 only 30 are enrolled in the Bard program.

8           You know, I -- dozens and dozens of  
9 inmates wanted to join the school program,  
10 but they have no access to it. There's a  
11 technical school program, you know, that's  
12 about 200 students. But the college program,  
13 which is advancement, where people can get a  
14 college degree and the recidivism rates are  
15 so low, we didn't see that.

16           So I'm wondering, you know, just in  
17 Green Haven alone, you know, that -- the  
18 facilities need some work. We would want  
19 more money to our prison system on capital,  
20 to redo our solitary units and move forward.  
21 I saw you were redoing a solitary cell there,  
22 but not in a new way to avoid solitary  
23 confinement.

24           Can we get your committee to look at



1 solitary cells and redo them in a way that's  
2 more humane and not in violation of the U.N.  
3 rules around solitary confinement?

4 ACTING COMMISSIONER ANNUCCI: Well, I  
5 can't make specific commitments about how we  
6 spend capital.

7 What I can tell you is I experienced  
8 it myself. All of the things that we're  
9 doing is moving in the direction of making  
10 the conditions more humane as we build our  
11 RRUs.

12 The existing programs that are  
13 alternatives to SHU at Mid-State and at  
14 Lakeview and the step-down to the community  
15 at Wende all are designed to provide  
16 out-of-cell structured treatment and  
17 programming. So the earphones that you can  
18 listen to the radio on, the tablet that you  
19 can make phone calls on, while we're moving  
20 to ultimately get the RRUs are ways that we  
21 are ameliorating.

22 One thing everybody should keep in  
23 mind: The very purpose of this is  
24 separation. If we lose the ability to

1 separate those --

2 ASSEMBLYMAN EPSTEIN: Commissioner, I  
3 only have a few seconds left, so I've got  
4 to -- if I can just follow up on that issue.  
5 You know, we've talked a lot to the inmates  
6 who have limited access on the JPay system.  
7 I'm wondering if we can get access to them,  
8 maybe they could be -- we could get a tablet  
9 and they could be just emailing our offices  
10 so we could follow up. Would that be  
11 something you'd be open to?

12 ACTING COMMISSIONER ANNUCCI: I'm  
13 sorry, you want access to what?

14 ASSEMBLYMAN EPSTEIN: The tablets,  
15 JPay, so inmates could email our offices  
16 directly and communicate with us without  
17 having additional costs associated with that.

18 ACTING COMMISSIONER ANNUCCI: I  
19 believe there's a way that they could send  
20 you an email, but they'd still have to pay  
21 for the stamp. But I'll double-check on it.

22 ASSEMBLYMAN EPSTEIN: Yeah, if there's  
23 a way to make it more accessible for us.

24 And I know -- and on a second point,

1 the early release time, and the costs  
2 associated with inmates. And I know I've run  
3 out of time --

4 CHAIRWOMAN KRUEGER: You have run out  
5 of time, Harvey. You can -- everyone can  
6 submit their questions to Helene and I and  
7 we'll write the commissioner or -- we're  
8 asking him if he'll send us back -- or you  
9 can write him separately or follow up with  
10 him separately.

11 But we've got to keep going. I'm an  
12 equal-opportunity mean -- whatever.  
13 Moderator.

14 Okay. Next is Carmen De La Rosa.

15 ASSEMBLYWOMAN DE LA ROSA:  
16 Commissioner, thank you for being here and  
17 for coming before us.

18 I want to also echo the sentiments of  
19 many of my colleagues here. I'm the main  
20 sponsor of the Elder Parole Law here in the  
21 Assembly. And we know, because you said even  
22 in your last budget hearing, that at 55  
23 people who are in prison are considered  
24 seniors because of the conditions they live

1 under.

2 My question is more towards the  
3 medical necessities, that these people who  
4 are either terminal or have very high  
5 critical needs, medical needs, what is the  
6 cost associated with providing some of the  
7 services that they require across the system?

8 ACTING COMMISSIONER ANNUCCI: I can't  
9 give you the specific dollar figure, but you  
10 are correct, the older you get in prison, the  
11 more costly level of medical care you are  
12 required to receive. And we do have  
13 arrangements with outside hospitals; if  
14 somebody needs hospitalization, they go on a  
15 secure ward until they're better. They may  
16 recover in one of our regional medical units.

17 But clearly people -- the older they  
18 get, if they have hypertension, high blood  
19 pressure, some of them may have cancer --  
20 whatever, it is we have to provide the  
21 treatment and we will do that.

22 The medical parole issue is another  
23 important one. And it is something that I  
24 try and prioritize whenever I get an

1 application. But read the statute in terms  
2 of who's eligible and who's not -- there's a  
3 hurdle that has to be overcome. It can't  
4 just be for somebody that's terminal; they  
5 have to be so infirm that they can't  
6 potentially pose a danger to society. Which  
7 is a high hurdle.

8 So I know people want a lot more  
9 medical paroles, but there is the law that we  
10 have to abide by in that area.

11 ASSEMBLYWOMAN DE LA ROSA: Certainly.

12 And I did visit Fishkill Correctional  
13 Facility two weeks ago, and I saw their  
14 infirmary, state-of-the-art machines to deal  
15 with dialysis and infirm people.

16 But I also did walk through the wing  
17 where the developmentally disabled people  
18 were, as well as people who were on their  
19 deathbed. These people do not pose a threat  
20 at all. They can't even walk. So I just  
21 want to bring that to your attention.

22 But I also wanted to ask you about the  
23 cost of something like dialysis machines, for  
24 example, for the department. What does

1 something like that cost you all a year?

2 ACTING COMMISSIONER ANNUCCI: It's not  
3 cheap. Dialysis is expensive, and we have  
4 them at several facilities. But it is not  
5 cheap by any means.

6 One thing I will caution is that some  
7 of these individuals that are infirm, like in  
8 the unit for the cognitively impaired, it's  
9 not easy, when it does come for them to be  
10 released, to find a nursing home that would  
11 accept them. That is a very difficult chore  
12 for us.

13 ASSEMBLYWOMAN DE LA ROSA: That was  
14 actually my follow-up question.

15 Can you explain the biggest hurdle to  
16 finding housing for these people right now?

17 ACTING COMMISSIONER ANNUCCI: If some  
18 of them are sex offenders, it's very, very  
19 difficult to find nursing homes that would  
20 accept them. And some of them, if they have  
21 no place, if they have no family, then your  
22 only option is a homeless shelter.

23 One of the things I prioritize is the  
24 use -- the work of social workers to

1 reconnect people with their families. In  
2 Adirondack, where we have some elderly people  
3 right now, we have social workers that are  
4 reconnecting them with family that they've  
5 been disconnected with for many, many years.

6 When you reconnect with family, you  
7 potentially have a home to go to when it's  
8 time for your release. So that's a priority  
9 that we're pushing.

10 ASSEMBLYWOMAN DE LA ROSA: Thank you.  
11 I'll come back for a second round later.  
12 Thank you.

13 CHAIRWOMAN KRUEGER: And you won't,  
14 unfortunately; we're only allowing chairs to  
15 have a second round. But you can follow up  
16 with the commissioner in a variety of ways.

17 ASSEMBLYWOMAN DE LA ROSA: I will.  
18 Thank you.

19 CHAIRWOMAN KRUEGER: Thank you very  
20 much.

21 Next is Assemblymember Ra.

22 ASSEMBLYMAN RA: Thank you.

23 Good afternoon. I just wanted to  
24 first start with -- my colleague

1 Mr. Palmesano had a question at the end that  
2 he tried to sneak in, but he was foiled by  
3 the chair --

4 (Laughter.)

5 ASSEMBLYMAN RA: -- so I wanted to ask  
6 it for him. It was regarding the youth that  
7 were transferred from DOCCS facilities to  
8 OCFS secure facilities last year pursuant to  
9 last year's budget. And who is supervising  
10 those youth?

11 ACTING COMMISSIONER ANNUCCI: OCFS,  
12 that agency.

13 ASSEMBLYMAN RA: Okay. And so they're  
14 supervised by their staff within the --

15 ACTING COMMISSIONER ANNUCCI: Right.  
16 Right.

17 ASSEMBLYMAN RA: Okay. Thank you.

18 The other questions we just had were  
19 regarding staffing at your facilities. I  
20 mean, obviously I know of many entities  
21 throughout the state, especially in, you  
22 know, your type of facilities, that had to  
23 deal with staff quarantines due to exposures  
24 and all that type of stuff.



1                   How have you found that during this  
2 almost year now with COVID -- do you have  
3 enough correction officers to cover when  
4 there were absences due to COVID or  
5 quarantines?

6                   ACTING COMMISSIONER ANNUCCI: It was a  
7 big challenge at times. It depended upon the  
8 specific facility when we had high numbers.

9                   I've been having regular phone calls  
10 with my superintendents, and we do monitor  
11 carefully. We have a plan to go to 12-hour  
12 schedules if we reach a point where there's  
13 too many staff that are quarantined. I mean,  
14 obviously the things that we've stopped --  
15 visitation stopped, medical that's not an  
16 emergency, deathbed funeral -- deathbed  
17 visits, et cetera -- has allowed staff to be  
18 present to do other responsibilities.

19                   But it has been a big challenge. And  
20 again, I'm just so grateful for the staff  
21 helping pull us through this very challenging  
22 time.

23                   ASSEMBLYMAN RA: Okay. And are there  
24 any plans at this point to run academy

1 classes in the very near future?

2 ACTING COMMISSIONER ANNUCCI: We do  
3 foresee that we will have a need for a couple  
4 of classes down the road in the upcoming  
5 fiscal year. And we do foresee parole  
6 classes as well, a couple. We don't have  
7 them yet scheduled, but there clearly is a  
8 need given the rate of attrition, which is  
9 about 54 or 58 a pay period, of correctional  
10 staff.

11 ASSEMBLYMAN RA: Okay. And one other  
12 thing I wanted to ask about. So years  
13 past -- and it's been a few years now, but  
14 DOCCS used to issue an annual report on  
15 recidivism. And I believe it would take a  
16 few years of rolling data. And my  
17 understanding is there hasn't been one  
18 released, I think, since 2012.

19 Are there any plans on releasing  
20 updated stats with regard to recidivism?

21 ACTING COMMISSIONER ANNUCCI: The  
22 three-year study I think is what you're  
23 referring to. Let me check with our research  
24 unit when the next one is going to come out,

1 and we'll get back to you.

2 I can tell you that they have been  
3 working tirelessly to keep accurate  
4 statistical numbers on daily rates at every  
5 one of our facilities -- how many tests are  
6 performed, how many positive, how many  
7 recovered, et cetera. So they have been  
8 doing extraordinary work so we can have  
9 real-time data and put it on our website.

10 ASSEMBLYMAN RA: Okay. Thank you.  
11 We're definitely, you know, interested in  
12 those reports. I think -- I think they're  
13 important for the Legislature to look at when  
14 we're making, you know, decisions in all  
15 different types of things.

16 So thank you, Acting Commissioner.

17 ACTING COMMISSIONER ANNUCCI: Sure.

18 CHAIRWOMAN KRUEGER: Thank you.

19 Assemblymember Tannousis. I apologize if I  
20 pronounced that wrong.

21 ASSEMBLYMAN TANNOUSIS: Hi,  
22 Commissioner, how are you? Thank you for  
23 being here today.

24 I asked this question of the prior

1 speaker, and he mentioned that you may be  
2 able to help us better. Would you be able to  
3 tell us how many inmates in the state system  
4 are there because of a marijuana-related  
5 offense?

6 ACTING COMMISSIONER ANNUCCI: Yeah, we  
7 ran this analysis on December 12th of last  
8 year -- someone else had asked the  
9 question -- and there was a total of 21 whose  
10 most serious crime of commitment was a  
11 marijuana offense.

12 ASSEMBLYMAN TANNOUSIS: Out of how  
13 many inmates in the entire New York State?

14 ACTING COMMISSIONER ANNUCCI: Today we  
15 have 33,100 something, I think.

16 ASSEMBLYMAN TANNOUSIS: So it's  
17 21 individuals from 33,000 New York State  
18 inmates are there for a marijuana-related  
19 offense.

20 ACTING COMMISSIONER ANNUCCI: The top  
21 offense is a marijuana offense, yes.

22 ASSEMBLYMAN TANNOUSIS: Thank you very  
23 much. And thank you for your service.

24 ACTING COMMISSIONER ANNUCCI: Thank

1           you, Assemblyman.

2                   CHAIRWOMAN KRUEGER: You're ceding  
3 back your time?

4                   ASSEMBLYMAN TANNOUSIS: Yes, thank  
5 you.

6                   CHAIRWOMAN KRUEGER: Thank you.

7                   And Assemblymember Anna Kelles.

8                   ASSEMBLYWOMAN KELLES: Hi, thank you.

9                   I have a few questions. One -- I'm  
10 just going to jump right into them for the  
11 lack of time. So it was so good to meet you.

12                   First question, to clarify something  
13 that was brought up earlier with respect to  
14 solitary. So recognizing that people in  
15 prison are already being moved anyway because  
16 they're being moved into solitary, I'm trying  
17 to understand the opposition with the  
18 financial justification. If they're already  
19 being moved into these facilities and out of  
20 them into the solitary, and you are already  
21 building the rehabilitation units, I'm trying  
22 to understand where the expense is that you  
23 were talking about.

24                   ACTING COMMISSIONER ANNUCCI: The

1 expense is primarily in additional staffing  
2 that are going to have to transport them on  
3 Day 16 -- if that's the day that we have to  
4 move them, under the bill -- to a distant  
5 RRU.

6           Whereas there will be shorter  
7 sentences, like 30 days, and they can stay  
8 where they are. Plus you have to pack up all  
9 their property and transport it with them to  
10 another distant RRU. If they can stay where  
11 they are, the property can remain there. It  
12 will still be packed up, but not have to be  
13 moved to a distant facility.

14           ASSEMBLYWOMAN KELLES: I'm sorry, just  
15 to understand --

16           ACTING COMMISSIONER ANNUCCI: Most of  
17 that expense --

18           ASSEMBLYWOMAN KELLES: You have to  
19 transfer them anyway, correct, when you bring  
20 them out of solitary. I'm just trying to  
21 understand. I mean, you would transfer them  
22 anyway when they're coming out of solitary,  
23 so the timing of having --

24           ACTING COMMISSIONER ANNUCCI: We're

1 not transferring them to another facility.  
2 They could -- their cell could even be  
3 remaining there for them to be back into that  
4 same cell.

5 ASSEMBLYWOMAN KELLES: And another  
6 question -- thank you. How many people leave  
7 the prison system, do you know or keep track  
8 of, and go into the homeless shelter system?

9 ACTING COMMISSIONER ANNUCCI: It's not  
10 a low number. I can get it for you. But it  
11 is not a low number. And --

12 ASSEMBLYWOMAN KELLES: Yeah, that  
13 would be really wonderful to get that. I'm  
14 curious, is there any program in place to  
15 coordinate with DSS potentially to work with  
16 people before they leave the system, to get  
17 them into services?

18 ACTING COMMISSIONER ANNUCCI: Yes.

19 Well, first of all, let me back up.  
20 We work four months prior to a release date  
21 with the individual, trying to get them into  
22 approvable housing.

23 If they come up to the release date  
24 and we can't find them, we coordinate with

1 the local DSS, we give them notification so  
2 that they're aware on this day, this  
3 individual is coming out and he will require  
4 some type of services.

5 We also have, you know, contracts with  
6 housing -- limited, but we do have the  
7 ability for housing.

8 We also have relationships with two  
9 entities, CEO and PLS as well. They've  
10 secured funding, stipends to give to  
11 individuals who are released into certain  
12 areas, like the Bronx or Manhattan or other  
13 parts of the state so that they can help pay  
14 for some type of housing when they get there.

15 So there's a lot of different things  
16 that are out there. But even before COVID,  
17 it was a big challenge. It's only that much  
18 more difficult now.

19 ASSEMBLYWOMAN KELLES: Yeah, that data  
20 would be great. Thank you so much.

21 CHAIRWOMAN KRUEGER: Thank you.

22 Okay, we're going to our final two  
23 chairs for their second five-minute rounds.  
24 First, Chair Julia Salazar.



1                   SENATOR SALAZAR: Thank you, Chair.

2                   Commissioner, if I may follow up on  
3                   Senator Bailey's question regarding Tier 3  
4                   violations, could you briefly define what is  
5                   no longer defined to be a Tier 3 violation?

6                   ACTING COMMISSIONER ANNUCCI: We just  
7                   published the regulations on that. There's a  
8                   number of them that are no longer Tier 3. I  
9                   don't have them off the top of my head, but I  
10                  certainly can pull that information together  
11                  and get it to you.

12                  SENATOR SALAZAR: Excellent. Thank  
13                  you.

14                  And I wanted to ask, when DOCCS  
15                  reports or records the number of people who  
16                  are currently held in special housing units  
17                  in state facilities, does that include people  
18                  who are kept in keeplock in their own cells,  
19                  meaning, you know, people who are confined  
20                  for 17 hours or more for disciplinary  
21                  purposes? And if it doesn't, could you tell  
22                  me how many people are currently kept in  
23                  keeplock or for the disciplinary purposes in  
24                  their general population cells?

1           ACTING COMMISSIONER ANNUCCI: Yeah, if  
2           you're in keeplock in your own cell, you're  
3           not in SHU. We do keep track of that  
4           population. We do have separate amenities  
5           for them and, as you mentioned, five hours  
6           time out of cell to still go to programming,  
7           et cetera.

8           It is possible that you could be  
9           serving a keeplock sentence in an SHU cell,  
10          in which case other things kick in and you  
11          will earn an earlier release. You get more  
12          credit if you're serving keeplock in an  
13          SHU cell.

14          So I will get you, if you want, the  
15          total-number breakdown as of a particular  
16          date.

17          SENATOR SALAZAR: Thank you.

18          And I wanted to go back to COVID-19  
19          regulations.

20          Actually, how many people who are  
21          incarcerated have applied for medical parole  
22          since the pandemic struck last March,  
23          approximately?

24          ACTING COMMISSIONER ANNUCCI: It's a

1 high number. I don't remember it off the top  
2 of my head, but it is a high number that have  
3 applied.

4 But remember, a lot of people applied  
5 because they felt, I am at risk because I  
6 have asthma or I'm a smoker or whatever it  
7 is. And that's not a ground under the  
8 statute the way it's written, 259R and S in  
9 the Executive Law, of the standard you have  
10 to meet. You actually have to have a  
11 condition that's either terminal or so  
12 debilitating that you can't reasonably pose a  
13 risk to the public.

14 And we've had a bad experience, even  
15 someone in a wheelchair who ended up in a  
16 nursing home was able to sexually molest  
17 another patient in that nursing home, even  
18 though when they were with us, it took them  
19 half an hour to go 30 feet in their  
20 wheelchair.

21 SENATOR SALAZAR: So I guess the  
22 question is, more broadly, how many people  
23 have been released from prisons in New York  
24 specifically for COVID-19-related reasons,

1 including medical parole?

2 It sounds like you don't have the  
3 number exactly. Actually, you know what,  
4 I'll just ask you: What was the rationale  
5 for the COVID-19-related release eligibility  
6 that DOCCS had set up being limited to people  
7 who were within 90 days of their release  
8 date, limited to those who were convicted of  
9 nonviolent crimes? What was the rationale  
10 for that eligibility?

11 ACTING COMMISSIONER ANNUCCI: It was a  
12 balancing of public health and public safety.

13 These were individuals that were  
14 scheduled to be released within 90 days, so  
15 we created the legal means for that to happen  
16 by transferring their legal status to a  
17 residential treatment facility. And then on  
18 that basis, they physically were allowed to  
19 go home, if they had one, they had approved  
20 housing. We didn't want to just release them  
21 into the homeless shelter.

22 So they were non-sex -- nonviolent  
23 individuals and less risk to the public. But  
24 achieving less density while they were still

1 in the correctional system.

2 SENATOR SALAZAR: And for the  
3 COVID-19-related release mechanism that DOCCS  
4 had initially set up last April, I understand  
5 it was limited to people aged 55 and older,  
6 in addition to the previously mentioned  
7 criteria.

8 What was the rationale for that age  
9 criteria initially? Is 55 the age at which  
10 DOCCS defines people as aging or elders in  
11 prison?

12 ACTING COMMISSIONER ANNUCCI: It's  
13 something, you know, that researchers have  
14 basically said it's -- it's a good measure.

15 The 65 and older in a community  
16 translates to 55 and older in prison for two  
17 reasons. One, a lot of the cohort that are  
18 incarcerated have neglected their health  
19 concerns. Many of them are smokers, many of  
20 them drinkers, maybe they use drugs,  
21 whatever. When they come to us, they're  
22 already, you know, at a disadvantage.

23 Prison is stressful, that can also  
24 exacerbate things. So 55 and older is a

1 decent benchmark to look at and consider  
2 people to be, you know, a senior cohort, so  
3 to speak.

4 SENATOR SALAZAR: Thank you,  
5 Commissioner. That's my time.

6 CHAIRWOMAN KRUEGER: Thank you.

7 So since I'm only north of 55, I'm not  
8 sure how I'm feeling about this discussion,  
9 but we'll leave that alone for now.

10 I am going to allow Assemblymember  
11 Aubry, who snuck in with his hand very late  
12 in the game, to jump in for three minutes  
13 before I go to Assemblymember Weprin to  
14 close.

15 Hello, Assemblymember Aubry. You're  
16 not -- you're muted. I feel you're driving  
17 and you have no voice. There you go.

18 ASSEMBLYMAN AUBRY: I have a voice  
19 now.

20 CHAIRWOMAN KRUEGER: Okay.

21 ASSEMBLYMAN AUBRY: Good.

22 Commissioner, good to see you. I  
23 think you've got to be the longest acting  
24 commissioner that I've ever heard of in the

1 state system. And I know there's no Tony  
2 Award, there won't be an Emmy, but it's good  
3 to see you. Glad that you're still around.

4 I have two questions. One, what is  
5 the current budget for the prison industry  
6 component of the corrections system?

7 ACTING COMMISSIONER ANNUCCI: You  
8 know, I have that number, but I just haven't  
9 memorized it. It's a separate appropriation  
10 in our budget. But I can get you that  
11 number, Assemblyman.

12 ASSEMBLYMAN AUBRY: Okay. That would  
13 be helpful.

14 And the second, the rules that were  
15 agreed to, or the agreement made by the  
16 leaders two years ago with the Governor in  
17 regard to the maintenance of SHU took a very  
18 long time to get approved. Is there any  
19 reason why it took so long?

20 ACTING COMMISSIONER ANNUCCI: The  
21 rules were studied for quite some time. And,  
22 you know, we had to get public comments from  
23 people. There was just a lot of different  
24 complications to consider them.

1           But they've been adopted. They  
2           definitely changed things in dramatic ways.  
3           And we'd love to be able to explain to staff  
4           everything that has been done to get us to  
5           where we are today, everything that will be  
6           done to get us to where we are, you know, as  
7           the RRUs come on board and all the different  
8           amenities that you can get as conditions of  
9           confinement.

10           ASSEMBLYMAN AUBRY: The -- those rules  
11           also now have been adopted for localities.  
12           Is there any assistance that is going to be  
13           provided through the Executive Budget for  
14           those localities to implement the same rules?

15           ACTING COMMISSIONER ANNUCCI: I -- I  
16           can't speak to the localities, Assemblyman.  
17           I'm unaware of, you know, whatever  
18           arrangements have been made and what role an  
19           entity like the State Commission of  
20           Correction might play vis-a-vis them. I  
21           don't have any firsthand knowledge of that.

22           ASSEMBLYMAN AUBRY: Okay. Thank you  
23           very much. Sorry to hold you up.

24           Thank you, Senator, for --



1                   ACTING COMMISSIONER ANNUCCI: This is  
2 my Academy Award, by the way (holding up  
3 Oscar statuette).

4                   (Laughter.)

5                   ASSEMBLYMAN AUBRY: I could never  
6 trust you to keep straight, you know?

7                   Take care, my man.

8                   ACTING COMMISSIONER ANNUCCI: Good  
9 seeing you, Assemblyman.

10                  ASSEMBLYMAN AUBRY: Good to see you  
11 too.

12                  CHAIRWOMAN KRUEGER: Thank you,  
13 Assemblymember.

14                  And now to close, chair of the  
15 committee, Assemblymember Weprin.

16                  ASSEMBLYMAN WEPRIN: Thank you,  
17 Senator Krueger.

18                  And thank you, Commissioner, for being  
19 patient through these many hours of  
20 testimony.

21                  I understand -- I have a bill that  
22 just passed out of committee, it seems like a  
23 long time ago but it was actually this  
24 morning. And it would basically give you

1 more authority to release inmates to home  
2 confinement, similar to the federal system.

3 And I know you've pointed out that  
4 medical parole, you know, is not necessarily  
5 the end-all and it's not solving some of the  
6 problems. So the question I have for you is,  
7 is that something you would support? And  
8 we're hoping to -- you know, to have that in  
9 place.

10 ACTING COMMISSIONER ANNUCCI:

11 Assemblyman, I love the working relationship  
12 you and I have, and the mutual respect, but  
13 as you know, I can't comment on pending  
14 legislation, so I will not be able to give  
15 you any feedback on that.

16 ASSEMBLYMAN WEPRIN: Okay. I'm going  
17 to just ask a couple of questions about aging  
18 in prison, because I know that's been coming  
19 up and I know there's strong support for some  
20 form of an elder parole bill, which has been  
21 around for a long time.

22 How many people 55 years or older are  
23 currently in DOCCS custody? And I know  
24 you're obviously focusing on 65 for the

1 vaccine. But can you give us some kind of a  
2 figure on how many we now have over 55?

3 ACTING COMMISSIONER ANNUCCI: I might  
4 be able to. I have someone in my office  
5 trying to look that up very quickly.

6 I know it was slightly more than a  
7 thousand who are 65 and older.

8 ASSEMBLYMAN WEPRIN: So 55 is much  
9 higher, obviously.

10 ACTING COMMISSIONER ANNUCCI: Yeah,  
11 no, it is much higher.

12 ASSEMBLYMAN WEPRIN: What would be the  
13 average cost of incarcerating an older  
14 person, and how does that compare to a  
15 younger person? Because I know there are a  
16 lot of medical issues associated. And as you  
17 pointed out at a prior hearing a number of  
18 years ago, that people age much quicker in  
19 prison and 55 is really -- in the outside  
20 world is equivalent to someone much older.

21 ACTING COMMISSIONER ANNUCCI: The  
22 answer to your earlier question, it's about  
23 5,000 individuals that are 55 and older in  
24 our system.

1           And I believe someone else previously  
2           asked the difference in the cost. It's --  
3           there is a higher cost for individuals that  
4           are older, their medical needs are  
5           exacerbated. But I can't give you a dollar  
6           figure. It would be something very hard to  
7           quantify, really, when you look at the  
8           different units that we have and the dialysis  
9           and the regional medical units and the unit  
10          for the cognitively impaired.

11           I will tell you, though, that we are  
12          trying to institute good programming for them  
13          to make them feel at ease and make them still  
14          feel important. We may, you know, start a  
15          feline program at Adirondack and a college  
16          program. You're never too old to go to  
17          college. So, you know, we do try and keep  
18          them feeling useful and important and having  
19          value.

20           ASSEMBLYMAN WEPRIN: Okay. Thank you,  
21          Commissioner.

22           I know the issue of tracking deaths in  
23          prison -- you know, and illness as well --  
24          has been a current issue. Let me ask you a

1 question. If an inmate serving a DOCCS  
2 sentence dies in a hospital or ambulance, how  
3 is that death classified?

4 ACTING COMMISSIONER ANNUCCI: It's  
5 counted as a DOCCS death. It will require an  
6 autopsy to be performed by the coroner.  
7 Every DOCCS death, a facility death is by a  
8 coroner. In fact, the Correction Law  
9 specifies that when we send people to outside  
10 hospitals, they are legally still in our care  
11 and custody. We just enforce appropriate  
12 security measures.

13 So every single individual, if they're  
14 in the ambulance on their way, they're in an  
15 outside hospital, whatever they are, they're  
16 counted as a death of a correctional  
17 facility, an autopsy is required, we  
18 reimburse the locality for the cost of the  
19 autopsy.

20 ASSEMBLYMAN WEPRIN: Good. I'm happy  
21 to hear that, because that has been an issue,  
22 as you know, with nursing homes. And  
23 certainly, you know, we would consider that a  
24 death as well from a correctional facility.

1 I've got 30 seconds. Let me just ask,  
2 of -- let me see what I didn't cover. How  
3 often are inmates tested for COVID? Or is it  
4 only symptom-related and requests?

5 ACTING COMMISSIONER ANNUCCI: No, we  
6 basically tested the entire system. We  
7 started with those that were displaying  
8 symptoms. We expanded that for asymptomatic,  
9 then we expanded it to those in quarantine.  
10 Then we did certain cohorts like the seniors.  
11 And then we finally did the entire system.

12 And right now we continue to test  
13 anybody that's displaying symptoms or in  
14 quarantine, including asymptomatic. And now  
15 we also superimposed on top of that a  
16 randomized selection, depending upon the size  
17 of the population at a particular facility.  
18 We go to different housing units, and various  
19 people are selected randomly so that we can  
20 get real feedback as to the presence of COVID  
21 in our system.

22 ASSEMBLYMAN WEPRIN: Okay. Thank you,  
23 Commissioner.

24 Thank you, Madam Chair. I think my

1 time has expired.

2 CHAIRWOMAN KRUEGER: Yes, it has.

3 And Commissioner, not really, but your  
4 time has expired with us. So thank you very  
5 much for being here with us, and I guess for  
6 being the longest living acting commissioner  
7 in New York State.

8 ACTING COMMISSIONER ANNUCCI: Thank  
9 you very much. It was my pleasure.

10 CHAIRWOMAN KRUEGER: Thank you.

11 All right, and now we're going to call  
12 up our eighth government representative for  
13 today's hearing, and that is -- and I see  
14 that he's here patiently waiting --  
15 Acting Superintendent Kevin Bruen, New York  
16 State Division of State Police.

17 Hello, Acting Commissioner -- Acting  
18 Superintendent, excuse me.

19 ACTING SUPERINTENDENT BRUEN: Yes,  
20 thank you very much.

21 CHAIRWOMAN KRUEGER: Thank you.

22 ACTING SUPERINTENDENT BRUEN: Thank  
23 you, Chairs Krueger and Weinstein and  
24 distinguished members of the joint committee,

1 for the opportunity to discuss  
2 Governor Cuomo's Executive Budget for the  
3 Division of State Police.

4 I am Kevin Bruen, acting  
5 superintendent. I've served the agency in  
6 various capacities for 17 years and as acting  
7 superintendent since November 2020. I am  
8 truly honored to lead the dedicated sworn and  
9 civilian members of this great agency.

10 I would like to thank the Legislature  
11 for recognizing our critical mission -- to  
12 protect and serve all New Yorkers. Your  
13 support has enabled the State Police to earn  
14 its reputation as one of the top law  
15 enforcement agencies in the nation.

16 For more than 100 years, the  
17 State Police has consistently provided a high  
18 level of professional public service. We  
19 learn and adapt to the needs of a constantly  
20 changing society, and we strive for  
21 continuous improvement in every aspect of our  
22 work.

23 Our mission priorities include  
24 improving highway safety; providing



1 professional police services and  
2 investigative support; detecting and  
3 preventing terrorism; and preparing for and  
4 responding to emergencies and disasters.

5 2020 brought several challenges to  
6 New York, none more so than the COVID-19  
7 pandemic. I am proud that our Troopers have  
8 worked continuously for the state as we have  
9 played and continue to play a significant  
10 role in the state's response, including the  
11 transportation of thousands of test samples  
12 from across the state to the Wadsworth  
13 Laboratory in Albany; assisting in  
14 establishing, operating and securing state  
15 COVID testing sites and vaccination sites;  
16 and supporting other state and local agencies  
17 in enforcement operations to help stem the  
18 spread of the virus.

19 As you know, the State Police is  
20 unique in that we are the only full-service  
21 New York law enforcement agency with  
22 statewide jurisdiction. In response to  
23 emergencies or natural disasters, the  
24 State Police has the ability to deploy large

1 numbers of professionally trained police  
2 officers throughout the state and beyond on  
3 short notice. For instance, last summer,  
4 following the death of George Floyd in  
5 Minneapolis, our Troopers were deployed  
6 throughout New York, at the request of  
7 numerous local and city police agencies, to  
8 assist with efforts to ensure public safety.

9 Over the past year, the Governor and  
10 the Legislature have enacted several police  
11 reforms, including a new body-worn camera  
12 program directed at the State Police. Since  
13 its passage in June, we have worked  
14 diligently to implement this program.

15 The Governor and the State Police  
16 recognize the dynamic nature of terrorism and  
17 extremism of all types around the world and  
18 domestically. Our role in the state's  
19 counterterrorism efforts help provide a wide  
20 range of initiatives and capabilities,  
21 enabling New York to remain one of the safest  
22 states in the country.

23 New York City remains a top terrorist  
24 target, and our expanded presence in the

1 city -- primarily at mass transit hubs and  
2 bridge and tunnel crossings -- has enhanced  
3 the collective efforts of the state and our  
4 partner agencies to detect, deter and respond  
5 to terrorism.

6 Disaster preparedness is a top  
7 priority of the Governor, and we continue to  
8 partner with the Division of Homeland  
9 Security and Emergency Services to improve  
10 response readiness. This partnership has  
11 enabled the State Police to better coordinate  
12 with state agencies and provide local support  
13 to communities following significant events.

14 Illegal drug use, in particular the  
15 availability of heroin, opioids and synthetic  
16 drugs such as fentanyl, along with the toll  
17 they inflict, remains a critical public  
18 safety issue. Building on the resources and  
19 training provided over the past few years,  
20 the State Police will continue to  
21 aggressively investigate drug-related  
22 offenses, particularly criminal trafficking,  
23 as well as assist local police agencies with  
24 their investigations whenever requested.

1           Our highest priority continues to be  
2           the safety of the public and our Troopers who  
3           protect them. With your support, the  
4           Executive Budget continues to provide our  
5           Troopers with the necessary equipment,  
6           training and other valuable resources to  
7           achieve the best levels of safety as they  
8           carry out their duties.

9           Again, I am exceedingly honored to  
10          represent the nearly 6,000 dedicated men and  
11          women of the Division of State Police that  
12          serve and protect the people of this great  
13          state. They do so selflessly, with  
14          tremendous pride, and at times with great  
15          personal sacrifice.

16          I thank you for your support on behalf  
17          of the State Police, and I welcome any  
18          questions.

19          CHAIRWOMAN KRUEGER: Thank you very  
20          much.

21          Our first questioner will be  
22          Senator Jamaal Bailey, chair of Codes,  
23          five minutes.

24          SENATOR BAILEY: Thank you,

1 Madam Chair.

2 Thank you, Acting Superintendent, for  
3 your leadership and for your testimony. I  
4 guess I just want to get into the  
5 conversation about the body cameras.

6 So what is the exact amount of body  
7 cameras that will be provided in this  
8 contract?

9 ACTING SUPERINTENDENT BRUEN: I'll  
10 have to get you the exact number.

11 The number is going to be sufficient  
12 to cover the Troopers on patrol who will need  
13 to have them, as well as backups should they  
14 go down, and they need to be recharged and  
15 the data needs to be uploaded. So we have to  
16 have a certain number to cover that.

17 SENATOR BAILEY: Okay. And I guess  
18 that was my next question.

19 So on patrol, is it -- so they would  
20 be given to individuals who are actively on  
21 patrol at that time? And would they be  
22 switched out from member to member? Would  
23 they be permanently assigned, or how would  
24 the body cameras be assigned?

1           ACTING SUPERINTENDENT BRUEN: The body  
2 cameras are assigned to the members,  
3 partially because they need to be recharged.

4           The shift lasts 12 hours. The data  
5 they collect needs to be uploaded. The  
6 upload speeds -- as you can imagine, the  
7 connectivity is better in some places than it  
8 is at others.

9           So there will be enough body cameras  
10 so that an individual going out on patrol  
11 will have one.

12          SENATOR BAILEY: Okay. Undoubtedly  
13 highlighting the need for more broadband  
14 around the state, especially in the upstate  
15 regions.

16          So the access to that body camera  
17 footage, would that be limited to that --  
18 again, that individual officer, or would that  
19 be available to other folks, such as  
20 superiors or other officers?

21          ACTING SUPERINTENDENT BRUEN: Well,  
22 it's going to be available to other officers,  
23 other Troopers, investigators. It may be  
24 available for other purposes as well.

1           There will be audits to make someone  
2           that the Troopers are engaging the cameras  
3           when they should be. It will -- the data can  
4           be uploaded and associated -- in association  
5           with a criminal case and provided to the  
6           district attorney and ultimately the defense.

7           It will be stored and it could be used  
8           and FOILED should someone want that body  
9           camera footage for an auto accident or  
10          something that they deem necessary.

11          SENATOR BAILEY: Okay. And if an  
12          officer is found not to have properly engaged  
13          the body camera, are there going to be  
14          disciplinary procedures? If so, what would  
15          they be?

16          ACTING SUPERINTENDENT BRUEN: Well,  
17          you can't specify exactly what the result of  
18          a particular disciplinary procedure would be.

19          But I have to tell you, the State  
20          Police, we have a rule for everything, or it  
21          feels like it sometimes. And if you are  
22          given a piece of equipment and we have rules  
23          that say you need to engage it under specific  
24          circumstances and you don't do it, you will

1 get supervisory attention and it can  
2 escalate, depending on what happens.

3 SENATOR BAILEY: Okay. I mean, that's  
4 the -- well, I guess I want to ask one more  
5 policy-related question that I asked  
6 Commissioner Greene from DCJS. And you may  
7 have a similar answer, but I figure I'll ask  
8 it of the State Police superintendent.

9 Any position on the use of kettling or  
10 certain irritants during protests? Is there  
11 a position that the State Police has on that?

12 ACTING SUPERINTENDENT BRUEN: The  
13 position that we have is that the interaction  
14 with mass demonstrations and protests are  
15 delicate, and they need to be handled with  
16 planning, they need to be handled with  
17 training, they need to be handled with  
18 express supervision.

19 I wasn't familiar with the term  
20 "kettling" until I heard you use it. And,  
21 you know, I'm now aware of it. We don't use  
22 that practice in specific because as I  
23 understand it, that practice would force  
24 people into an area where they can't get out



1 of, and we simply don't do that.

2 But the fact of the matter is that  
3 those -- what starts out as a peaceful  
4 protest can turn difficult, and we have to  
5 have the rules of engagement and the  
6 operational plan that we have set out before  
7 we engage with the public. So before  
8 anything happens, we need to lay those things  
9 out.

10 We do have a highly trained, specific  
11 unit that will often do this sort of work,  
12 and we have a very explicit, you know, manual  
13 that governs their action, that lays out --  
14 this is people's First Amendment rights.  
15 People's First Amendment rights need to be  
16 respected and ensured that they can carry on  
17 peaceful protests.

18 SENATOR BAILEY: Well, let me thank  
19 you for your testimony, and let me also say  
20 thank you to the women and men who serve our  
21 state. We appreciate the sacrifice that they  
22 make for our state.

23 And on a personal level, I appreciate  
24 you opening up the gym to us on Tuesday

1           nights during better times on Washington  
2           Avenue so that some members and I, we can  
3           play basketball. So I just --

4                    ACTING SUPERINTENDENT BRUEN: Any  
5           time, Senator. Just don't ask me to play.

6                    (Laughter.)

7                    SENATOR BAILEY: Listen, when we're  
8           back, you have the keys, literally and  
9           figuratively, so --

10                   ACTING SUPERINTENDENT BRUEN: I'll  
11           open the door, but I'm not playing.

12                   (Laughter.)

13                   SENATOR BAILEY: I appreciate you.  
14           Thank you very much.

15                   CHAIRWOMAN KRUEGER: Now we jump to  
16           what really Jamaal Bailey cares about, so  
17           thank you --

18                   SENATOR BAILEY: Basketball and  
19           policy, you know.

20                   CHAIRWOMAN KRUEGER: I know, I know,  
21           it's a good mix.

22                   Assemblymember Dinowitz.

23                   ASSEMBLYMAN DINOWITZ: Thank you.

24                   So when New York passed the SAFE Act,

1           it unfortunately ended its own attempt at  
2           creating a database to connect and submit all  
3           ballistic evidence of weapons sold in  
4           New York.

5                     Do you know, when will the state  
6           create its ammunition database to track sales  
7           to residents who may be assembling deadly  
8           stores of ammunition, as mandated by the  
9           SAFE Act? Because it's kind of been a long  
10          time already.

11                    ACTING SUPERINTENDENT BRUEN: I think  
12          you're referring to the NIBIN system, which  
13          was shut down, which was -- collected  
14          expended brass when a gun was sold, and the  
15          creation of the -- and that was true, that  
16          was shut down. I don't believe anyone uses  
17          it anymore.

18                    And you're talking about the recurring  
19          issue of the ammunition database --

20                    ASSEMBLYMAN DINOWITZ: Yes.

21                    ACTING SUPERINTENDENT BRUEN: -- to  
22          check whether someone is lawfully able to  
23          purchase ammunition.

24                    That continues to be an IT issue, and

1           it continues to be not in a current position  
2           to be deployed effectively.

3                     ASSEMBLYMAN DINOWITZ: Okay. I would  
4           just urge that we try to address that issue.

5                     Two years ago the Legislature enacted  
6           a law that allows law enforcement to remove  
7           firearms from people charged with domestic  
8           violence offenses, and it also allows courts  
9           to revoke or suspend their firearms licenses.

10                    This information is then reported to  
11           the State Police and DCJS, presumably for  
12           inclusion in the statewide license and record  
13           database established by the SAFE Act.

14                    Now, from what I understand, this  
15           license and record database, like the  
16           ammunition database, is still not operational  
17           seven years later. Is that true? I  
18           understand it's true, but I just want to  
19           double-check that. Is that the case?

20                    ACTING SUPERINTENDENT BRUEN: No, I  
21           understand that is an ongoing effort as far  
22           as that part of it is going.

23                    ASSEMBLYMAN DINOWITZ: Ongoing to  
24           establish it or that it's already working?

1                   ACTING SUPERINTENDENT BRUEN: No, it's  
2 an ongoing effort to make it operational.

3                   ASSEMBLYMAN DINOWITZ: Right. It's --  
4 okay. I mean, it's been a couple of years  
5 already --

6                   (Overtalk.)

7                   ASSEMBLYMAN DINOWITZ: I'm sorry, go  
8 on.

9                   ACTING SUPERINTENDENT BRUEN: The  
10 challenges are significant due to the nature  
11 of the way and the length of time that we've  
12 had the pistol permit database and pistol  
13 permit records. They are on many different  
14 platforms, and that data has to be cleaned  
15 up.

16                   In addition, we have the ongoing  
17 reregistration and registration of the  
18 assault weapons and the pistol permits.

19                   But I understand your concern.

20                   ASSEMBLYMAN DINOWITZ: Do you have a  
21 timetable at this point, or is it pretty much  
22 open-ended?

23                   ACTING SUPERINTENDENT BRUEN: I don't  
24 have a timetable, but I can get one.

1 ASSEMBLYMAN DINOWITZ: I'd appreciate  
2 it.

3 And what about the ammunition  
4 database? Do we -- I mean, that's a pretty  
5 long delay. Do we have a timetable for that?

6 ACTING SUPERINTENDENT BRUEN: I don't,  
7 but I can follow up with IT. It's largely an  
8 IT program at this point. It's, you know, a  
9 heavy lift to work that out.

10 ASSEMBLYMAN DINOWITZ: Okay. Thank  
11 you very much.

12 CHAIRWOMAN KRUEGER: Okay, thank you.

13 Senator O'Mara has popped into the  
14 scene. Hello, ranker on Finance.

15 SENATOR O'MARA: Hello, Chairwoman.  
16 I've been here all along, just been quiet.

17 CHAIRWOMAN KRUEGER: I know, but we  
18 haven't heard from you all day, so I was a  
19 little worried about you.

20 SENATOR O'MARA: Superintendent, thank  
21 you for being here today and thank you for  
22 your long and really great role and career in  
23 law enforcement with the New York State  
24 Police.

1                   ACTING SUPERINTENDENT BRUEN: Yes,  
2                   sir.

3                   SENATOR O'MARA: Can you kind of  
4                   describe for us, with the prospect of the  
5                   legalization of recreational marijuana,  
6                   what -- first of all, how is enforcement  
7                   going to be handled with that, since we don't  
8                   have a Breathalyzer-type test for that? And  
9                   what additional resources is the State Police  
10                  going to need in regards to impaired driving  
11                  while intoxicated under the influence of  
12                  marijuana?

13                  ACTING SUPERINTENDENT BRUEN: So we  
14                  enforce driving while impaired right now. We  
15                  do successfully, and it largely is not going  
16                  to change. It will change in one significant  
17                  way with the Governor's program bill, and  
18                  that is it will allow us to take saliva like  
19                  a breath test.

20                  There is a test at the lab that is  
21                  ready to go, and I have spoken with my  
22                  toxicology people and they feel that they can  
23                  handle the test and the increase, if there is  
24                  some increased number of tests.

1           But the approach to intoxicated  
2 driving is going to remain the same. We  
3 teach at the academy right now every person  
4 graduating as a Trooper from the New York  
5 State Police Academy is what's known as an  
6 ARIDE. An ARIDE is not a DRE, but it's an  
7 enhanced detection training program. It's a  
8 two-day course in the detection of  
9 drug-influenced driving.

10           Also, within the year we're going to  
11 have every Trooper trained as an ARIDE. So  
12 we're going to have that in our back pocket  
13 as well.

14           But the core policing mission will  
15 remain the same: Observations of erratic  
16 driving, pulling someone over, gathering  
17 evidence by paying attention, engaging the  
18 driver in conversation and observing the  
19 driver's behavior, gathering the evidence of  
20 impairment, getting the saliva sample and  
21 having it sent down to the lab to determine  
22 whether --

23           SENATOR O'MARA: On the saliva  
24 sample -- I'm not familiar with that -- is



1           that going to indicate like a blood alcohol  
2           level, the THC blood level?

3                    ACTING SUPERINTENDENT BRUEN:  That's a  
4           good question, and I asked it myself  
5           recently.  And the answer is no, it's not.  
6           What it's going to do is detect the presence  
7           of THC.  The challenges with THC in  
8           determining, based on a particular level  
9           impairment, remain.  That's an ongoing  
10          scientific kind of discussion.

11                   That's why the Trooper's observation  
12          of impairment is critical:  Do you have  
13          marijuana in your system, and did it impair  
14          your driving?

15                    SENATOR O'MARA:  I think that's going  
16          to be problematic, since THC stays in your  
17          blood system far longer than alcohol does.  
18          So I would think that would be unfair  
19          evidence in many cases, perhaps, for somebody  
20          that is not under the influence but may have  
21          smoked marijuana 10 days before.

22                    ACTING SUPERINTENDENT BRUEN:  Well,  
23          you've hit upon the exact issue.  And that is  
24          why I said it's two pieces.  One, do you have

1 marijuana in your system? And were you -- is  
2 there evidence of impairment, sufficient  
3 evidence of impairment, beyond a reasonable  
4 doubt or probable cause, depending on the  
5 place you're at. That's the standard we have  
6 now. And that's the standard we've had for  
7 years.

8 Is there evidence you've taken  
9 marijuana, and can the police -- the Trooper,  
10 county sheriff, or a city police officer --  
11 by evidence or testimony or other things  
12 indicate that your driving was impaired?

13 SENATOR O'MARA: What will the policy  
14 of the New York State Police be regarding  
15 marijuana use of State Troopers?

16 ACTING SUPERINTENDENT BRUEN: They  
17 will not be able to use recreational  
18 marijuana.

19 SENATOR O'MARA: Okay. Thank you.

20 CHAIRWOMAN KRUEGER: Thank you.

21 Next up is Assemblymember Chuck  
22 Lavine.

23 ASSEMBLYMAN LAVINE: Thank you.

24 And thank you, Acting Superintendent.

1           Two things I'd like to discuss. First  
2 of all, following the brutal assault on the  
3 United States Capitol on January 6th, when I  
4 learned that the State Police were going to  
5 be watching our State Capitol, that gave me  
6 great comfort. So thank you, and please  
7 thank the members of the State Police for  
8 that.

9           Secondly, Scott Beigel was a  
10 New Yorker. I don't know whether his name is  
11 offhand familiar to you, but being a  
12 New Yorker didn't --

13           ACTING SUPERINTENDENT BRUEN: Sure.  
14 Marjory Stoneman, I think.

15           ASSEMBLYMAN LAVINE: Yes. Yes.

16           But being a New Yorker didn't make him  
17 a hero, but protecting his students at  
18 Marjory Stoneman Douglas High School nearly  
19 three years ago in Parkland, Florida, and  
20 saving them, during which he was murdered --  
21 he was a hero.

22           So the State Senate today passed the  
23 Scott J. Beigel Unfinished Receiver Act,  
24 making it illegal in the State of New York

1 for nonlicensed gunsmiths to possess the  
2 component parts that are used to make  
3 do-it-yourself ghost guns, and making it  
4 illegal to sell those.

5 Now, we have seen people arrested in  
6 New York State -- on Long Island, in  
7 Port Washington, in Orange County, in  
8 Syracuse. And in 2020, in Syracuse, the  
9 police confiscated 25 ghost guns. And the  
10 list goes on and on and on. And the FBI  
11 instructs us that between 2010 and 2020,  
12 there were more than 2500 arrests for ghost  
13 guns.

14 So a question I have for you -- and  
15 let me just set it up this way. The District  
16 of Columbia and other states are considering  
17 making the possession and sale of the  
18 component parts of these do-it-yourself  
19 sophisticated tactical weapons illegal.

20 The question I have for you is, is  
21 this a cause for concern? Is the ready and  
22 easy ability to build these weapons from  
23 purchases online, in the open source market,  
24 is that a cause for concern for those of us

1 in the State of New York?

2 ACTING SUPERINTENDENT BRUEN: Without  
3 commenting on potential legislation,  
4 nonserialized guns, untraceable guns, are a  
5 concern.

6 If you had asked me that question five  
7 years ago, even two or three years ago, I  
8 would have said they're not prevalent in  
9 New York. One, two, three, four, five cases  
10 a year. And I would have said they largely  
11 appear in Western -- meaning Western United  
12 States, in gang-related kind of contexts.

13 But that is not true in 2020. We've  
14 seen a substantial jump, upstate and in  
15 New York City, of the use and recovery of  
16 ghost guns.

17 ASSEMBLYMAN LAVINE: Thank you,  
18 Acting Commissioner. And please give our  
19 warmest regards and gratitude to the men and  
20 women of our State Police. Thank you.

21 ACTING SUPERINTENDENT BRUEN: Thank  
22 you.

23 CHAIRWOMAN KRUEGER: Thank you very  
24 much.

1           We have Assemblymember -- well,  
2           actually, since he's a ranker, let's do  
3           Assemblymember Lawler for five minutes,  
4           ranker on Government Ops.

5           ASSEMBLYMAN LAWLER: Thank you.

6           Appreciate your time today.

7           Just following up on the cannabis  
8           legalization, currently there's only one  
9           state that puts a cap on the potency of  
10          marijuana and the THC levels, and that's the  
11          state of Vermont.

12          Do you believe that as we debate the  
13          issues surrounding this that we should have a  
14          cap on the potency of marijuana if it is in  
15          fact legalized?

16          ACTING SUPERINTENDENT BRUEN: Yeah,  
17          I -- thank you for the question, but I'm not  
18          going to comment on pending legislation. We  
19          leave it to you guys. And if it's signed  
20          into law, we'll enforce it.

21          ASSEMBLYMAN LAWLER: Okay. Following  
22          up on my colleague's questions related to  
23          trying to determine someone's THC level, you  
24          know, obviously an oral swab, if that is in

1 fact the case that we're going to go down  
2 that road, how long does that take to get a  
3 result on that?

4 ACTING SUPERINTENDENT BRUEN: Well,  
5 there's two things -- well, three. First, we  
6 don't have a test that will determine the  
7 level or concentration of the THC in the  
8 bloodstream. It's that two-part test I said:  
9 Presence and then we have to independently  
10 verify it, right?

11 The other thing is that there's two  
12 oral swabs. One's a roadside test, like a  
13 prescreen device in an alcohol case, you  
14 know, where the Trooper could have a small  
15 handheld thing. That's been experimented  
16 with.

17 And the test I'm referring to is a  
18 forensically valid test. It would be a test  
19 that would be gathered at the -- either  
20 roadside or at the station and then  
21 transported to the lab, and the test would be  
22 run there.

23 ASSEMBLYMAN LAWLER: Okay. And do you  
24 know, generally speaking, how long it takes

1 to get a result on that test?

2 ACTING SUPERINTENDENT BRUEN: I don't.

3 I suspect that it depends on the volume in a  
4 particular time frame. And that may effect  
5 how the Trooper proceeded at that point, in  
6 terms of whether somebody was arrested and  
7 charged or done something else with.

8 But clearly, if the Trooper has taken  
9 a sample like that, the person was exhibiting  
10 substantial impairment, otherwise they  
11 wouldn't have been asked for a sample. So  
12 there would be actions that had to be taken  
13 roadside to ensure safety, among other  
14 things.

15 ASSEMBLYMAN LAWLER: Okay. So  
16 generally speaking, they -- at that moment  
17 they would treat it as they would a DWI?

18 ACTING SUPERINTENDENT BRUEN: They  
19 would treat it as a DWAI. The test that I'm  
20 talking about is forensically valid, meaning  
21 it's like a blood test. So it's at that  
22 level of precision.

23 Now, again, it's not measuring level,  
24 but it's measuring presence. So it would be



1 something that could -- they would have to  
2 have sufficient probable cause to charge DWAI  
3 drugs.

4 ASSEMBLYMAN LAWLER: Okay. Totally  
5 switching gears, the last legislative session  
6 this body repealed 50-a of the Civil Rights  
7 Law. You're familiar with that?

8 ACTING SUPERINTENDENT BRUEN: Yes.

9 ASSEMBLYMAN LAWLER: Okay. This is  
10 more of a comment than a question, because  
11 I'm sure you're probably not going to want to  
12 opine on this.

13 But the -- are you aware that under  
14 the rules of the New York State Assembly,  
15 Rule 8, that the members of the State  
16 Assembly exempt themselves specifically from  
17 being subject to FOIL?

18 ACTING SUPERINTENDENT BRUEN: I have  
19 not made a particular study of the rules of  
20 the Assembly, no.

21 ASSEMBLYMAN LAWLER: Okay. Just so --  
22 I'm putting this out there for you to be  
23 aware. You know, obviously there's a clear  
24 hypocrisy between what this body has chosen

1 to do with respect to the officers who serve  
2 under your command and their personnel files  
3 and making them subject to FOIL while  
4 expressly exempting themselves.

5 So I just wanted you to be aware of  
6 that. And happy to send you Rule 8 of the  
7 rules of the New York State Assembly so you  
8 can see that at some point.

9 ACTING SUPERINTENDENT BRUEN: Thank  
10 you.

11 ASSEMBLYMAN LAWLER: Okay, I have no  
12 further questions. Thank you, sir.

13 ACTING SUPERINTENDENT BRUEN: Thank  
14 you.

15 CHAIRWOMAN KRUEGER: Thank you.

16 I'm sorry, I'm going to ask you a  
17 question just in follow-up on the marijuana.

18 So it's my understanding that New York  
19 State Police can pull you over for appearing  
20 to be driving dangerously right now, they can  
21 give you field sobriety tests, they can take  
22 away your right to drive your car, and they  
23 can do follow-up with chemical tests that may  
24 or may not be available, depending on what

1           you have in your system. Because obviously  
2           you could have alcohol in your system, you  
3           could have marijuana, you could have -- I  
4           guess I'll say hundreds if not thousands of  
5           prescription drugs.

6                         So that's correct, that your police  
7           have the authority to do that now?

8                         ACTING SUPERINTENDENT BRUEN: Yes.

9                         I would only say that we don't have  
10          the authority to take away anyone's right to  
11          drive. But temporarily we would have the  
12          right to take you -- stop you from driving  
13          while we conduct an investigation.

14                        (Zoom interruption.)

15                        CHAIRWOMAN KRUEGER: Thank you, yes.  
16          I wanted to be clear about that.

17                        Okay, I think they went back on mute.  
18          Thank you.

19                        Next we have Assemblymember Tannousis.

20                        ASSEMBLYMAN TANNOUSIS: Thank you.

21                        Thank you very much. Thank you,  
22          Superintendent, for being here.

23                        I just wanted to follow up in regards  
24          to Senator O'Mara's questions regarding the

1 possibility of passing the recreational  
2 marijuana.

3 I found myself as a prosecutor a few  
4 years back prosecuting these cases that I  
5 found that cases that were solely based on  
6 the testimony of police officers were  
7 substantially weaker compared to those cases  
8 that, for example, driving while intoxicated,  
9 where an individual -- a portable breath test  
10 was conducted, then they would be taken to an  
11 IDTU room where they blow on an Intoxilyzer.  
12 And we had a whole scientific machine that we  
13 were able to bring forth in court to show  
14 that the person was driving while  
15 intoxicated.

16 Are you somewhat concerned that if  
17 recreational marijuana is passed this year,  
18 that the cases that are brought forth by  
19 arrests by your Troopers will not be quite as  
20 strong as those cases of prosecuting driving  
21 while intoxicated? Because in that case  
22 there is an actual scientific machine, the  
23 defense attorney could attack the machine, he  
24 could talk about procedure -- where in this

1 situation, a State Trooper is testifying  
2 about his observations, a State Trooper  
3 without any type of test is basically going  
4 to be testifying on assumptions.

5 So are you concerned about that?

6 ACTING SUPERINTENDENT BRUEN: Well,  
7 you're lucky --

8 ASSEMBLYMAN TANNOUSIS: And -- I'm  
9 sorry to interrupt you -- just as a follow-up  
10 question, when will that machine be  
11 available, the machine that you were telling  
12 us about?

13 ACTING SUPERINTENDENT BRUEN: So it's  
14 available now. We have it.

15 ASSEMBLYMAN TANNOUSIS: Ah, okay.  
16 Thank you. If you could answer the first  
17 part --

18 ACTING SUPERINTENDENT BRUEN: And  
19 you're lucky you're not here at the academy  
20 calling it a machine, because they would make  
21 you run laps. It's an instrument.

22 ASSEMBLYMAN TANNOUSIS: God knows I  
23 could use the laps, by the way.

24 (Laughter.)

1 ASSEMBLYMAN TANNOUSIS: Are you  
2 concerned at all, Superintendent, about that?

3 ACTING SUPERINTENDENT BRUEN: You  
4 know, the -- I -- the -- one of the things  
5 that's going to address it -- first of all, I  
6 expect New York State Troopers, and it's been  
7 my experience that they do this, to conduct  
8 careful investigations and to testify clearly  
9 and accurately to the point where a jury  
10 would trust what it is they're saying and  
11 the -- let the chips fall where they may.

12 But it is an artifact of body cameras  
13 that I don't know as anyone's thought about  
14 it clearly, but an activation of a body  
15 camera -- if someone is behaving in such a  
16 way that mirrors what the Trooper saw and is  
17 describing and her body camera footage plays  
18 that back, a juror and juries presumably will  
19 have an even higher degree of reliability  
20 about their testimony.

21 ASSEMBLYMAN TANNOUSIS: But it's not  
22 as strong as an Intoxilyzer, though, correct?

23 ACTING SUPERINTENDENT BRUEN: You  
24 know, I don't -- I disagree with that. You

1 know, I think the Intoxilyzer and the  
2 instruments that we have are fantastic.

3 I think that the testimony, properly  
4 done, the evidence gathered, observations  
5 from the vehicle, observations from the car,  
6 things that are recovered from the car, other  
7 witnesses, can build very strong cases.

8 And quite frankly, this is the  
9 environment we're at now with DWAI cases.  
10 And, you know, I haven't seen any significant  
11 issues. I know what you're saying, that  
12 we're not going to end up with a particular  
13 threshold. But we have the -- if the  
14 legislation is passed, we have the  
15 instrument, we'll have the methods to collect  
16 it, and we'll have the forensically valid  
17 results.

18 ASSEMBLYMAN TANNOUSIS: Thank you for  
19 your time.

20 ACTING SUPERINTENDENT BRUEN: Thank  
21 you, sir.

22 CHAIRWOMAN KRUEGER: Thank you.

23 Assemblymember Latrice Walker.

24 Are you there, Latrice? I don't think

1 so.

2 ASSEMBLYWOMAN WALKER: I'm here, but  
3 of course there's -- we have conference going  
4 on as well as a number of other things, so I  
5 apologize for toggling back and forth.

6 But thank you very much for your  
7 testimony today, Mr. Superintendent. I have  
8 a really quick question.

9 So there was a budget request for  
10 body-worn cameras for the State Police.  
11 However, the request didn't match I believe  
12 what had been previously stated was the need  
13 for the State Police in order to get that  
14 done.

15 And so how much is the request this  
16 year? And what is the difference between  
17 what you indicated in the past was required  
18 and what is being proposed in this year's  
19 Executive Budget?

20 ACTING SUPERINTENDENT BRUEN: Well,  
21 I'm not exactly familiar with the prior  
22 request. I know we have made requests and  
23 wanted to pilot body cameras particularly in  
24 some of the more extreme environments, in the



1 mountains and other things.

2 But based on the passage of the law in  
3 June, which had very specific activation  
4 requirements, we ended up having to get --  
5 essentially, only one product met that need.  
6 So that might account for what you're seeing.

7 It's my understanding that the cost is  
8 roughly about \$8 million a year.

9 ASSEMBLYWOMAN WALKER: Okay. All  
10 right, no problem.

11 So what we did see was a request in  
12 the past for about \$15 million, but it looks  
13 like there's about \$7 million in this year's  
14 budget.

15 ACTING SUPERINTENDENT BRUEN: Yeah,  
16 and these are recurring costs, yeah.

17 Again, because the law was passed with  
18 very specific requirements, there was really  
19 only one product on the market that would  
20 meet the needs. And that then dictated kind  
21 of everything else from there.

22 That comes with -- you know, it meets  
23 our needs and it meets the requirements of  
24 the statute in terms of activation, signal

1 activation.

2 ASSEMBLYWOMAN WALKER: Okay. All  
3 right. Well, just wanted to -- so you're  
4 saying it's only going to cost you \$8 million  
5 in order to fully implement state body-worn  
6 cameras for this year -- and my face is  
7 moving on the Jeopardy --

8 ACTING SUPERINTENDENT BRUEN: That's  
9 all right.

10 ASSEMBLYWOMAN WALKER: -- the  
11 Hollywood Squares board.

12 ACTING SUPERINTENDENT BRUEN: Yup,  
13 that's my understanding of the costs of  
14 cameras. There are additional costs for  
15 personnel and other things, but that is the  
16 cost of cameras.

17 ASSEMBLYWOMAN WALKER: So there is an  
18 additional cost. But is that being taken  
19 into account for -- with respect to the  
20 budget request that you've put in?

21 ACTING SUPERINTENDENT BRUEN: Yes.

22 ASSEMBLYWOMAN WALKER: Okay. All  
23 right, awesome. Thank you.

24 ACTING SUPERINTENDENT BRUEN: Thank

1           you.

2                   CHAIRWOMAN KRUEGER: Thank you.

3                   I see we've been joined by the chair  
4           of Government Ops, Ken Zebrowski. And it's  
5           been a busy day for everyone.

6                   Please give him 10 minutes on the  
7           clock, thank you.

8                   ASSEMBLYMAN ZEBROWSKI: Thanks,  
9           Chair Krueger, and I won't need the  
10          10 minutes.

11                   Let me just say, Superintendent, thank  
12          you and please thank your officers for all  
13          the work that they have been doing during  
14          these difficult times. I know they're out on  
15          the roads, they're in our communities.  
16          When -- you know, when this pandemic started,  
17          by no means did their jobs stop. They had to  
18          figure things out at times where we had  
19          absolutely no idea how this was being  
20          transmitted, where it was being transmitted.  
21          They had to do their jobs.

22                   So, you know, will you please express  
23          our gratitude for all their hard work and  
24          what they do in protecting us every day.

1                   ACTING SUPERINTENDENT BRUEN: I will.

2                   ASSEMBLYMAN ZEBROWSKI: I just wanted  
3                   to reiterate a little bit on the body cam  
4                   question. And my understanding is that it's  
5                   a multiyear request. Certainly I believe  
6                   we're funding one year, this year, of  
7                   \$8 million. But I believe it was a five-year  
8                   request or estimate of about 8 million a year  
9                   for five years, which is a significant amount  
10                  of money.

11                  So my understanding is that that would  
12                  cover the total cost for not just, I think,  
13                  the 3,000 or so cameras now but, you know,  
14                  all the logistical and other hardware,  
15                  software things that go through it for the  
16                  next period. Is that your understanding?

17                  ACTING SUPERINTENDENT BRUEN: Yeah,  
18                  that is my understanding. That is my -- all  
19                  the products associated with the camera and  
20                  support with the camera.

21                  ASSEMBLYMAN ZEBROWSKI: Okay. All  
22                  right. We appreciate that.

23                  And, you know, certainly I'd love to  
24                  keep in touch with you for both, you know,

1 the rollout of this program as to how you  
2 think it's going, you know, is there  
3 sufficient funding, does it provide your  
4 officers with the proper support, you know,  
5 so that they can do their job and, you know,  
6 further on, obviously, with a host of other  
7 issues. Just wanted to say that, you know,  
8 we're there for you for continued  
9 collaboration going forward. So thank you.

10 ACTING SUPERINTENDENT BRUEN: Thank  
11 you.

12 CHAIRWOMAN KRUEGER: Okay, thank you.  
13 And Assemblymember Mike Reilly.

14 ASSEMBLYMAN REILLY: Thank you,  
15 Madam Chair.

16 Thank you, Superintendent, for your  
17 testimony.

18 A couple of things I wanted to ask  
19 about was I know you mentioned the ARIDE  
20 training. New York City Police Department is  
21 doing an offshoot of the DRE program, which  
22 is like a four-hour class. Do you think  
23 there's a possibility of the ARIDE training  
24 being administered to local police

1 departments throughout the state to help with  
2 the legalization of marijuana if it moves  
3 forward? Because I know the DRE program is  
4 expensive. And, you know, many times it  
5 takes the patrol officers away from their  
6 duties for some time because of the extent of  
7 the training.

8           Could you tell me how much that  
9 training is, the DRE program, and if it's  
10 feasible for ARIDE?

11           ACTING SUPERINTENDENT BRUEN: Well,  
12 the ARIDE program -- in order to be qualified  
13 for the DRE program, you have to be an ARIDE.  
14 And as I said before in testimony, that every  
15 new New York State Trooper is qualified as an  
16 ARIDE as they come through the academy. And  
17 by the end of the year we'll have the entire  
18 road Trooper force trained as ARIDEs.

19           DREs are akin to, as you know, you  
20 know, a test. It's a very extensive  
21 training, medically based and all the rest of  
22 it. There is only so much bandwidth that --  
23 there's only so much bandwidth at the  
24 training academies that will do this. At one

1 point there were only two. I think there's  
2 plans that they'll add two more online. But  
3 there's only so many slots. I think New York  
4 City has about -- between 12 and 16.

5 ASSEMBLYMAN REILLY: Yeah, 16.

6 ACTING SUPERINTENDENT BRUEN: And I  
7 have about 110. My goal is -- and it will  
8 take time -- is to make that number, that  
9 fixed number of DREs closer to 200.

10 But we have, you know, resources and  
11 ways of dealing with the issue up-front. And  
12 I'm certain that other departments will be --  
13 and other agencies will be looking at ARIDE  
14 training.

15 ASSEMBLYMAN REILLY: Thank you,  
16 Superintendent.

17 So I also wanted to touch on fentanyl  
18 analogs. I know that we have some  
19 legislation that's in to allow the Department  
20 of Health commissioner to add any necessary  
21 analogs. Do you think that would help with  
22 investigations?

23 ACTING SUPERINTENDENT BRUEN: You  
24 know, I don't comment on pending legislation,

1 but fentanyl is extremely serious and  
2 extremely dangerous.

3 ASSEMBLYMAN REILLY: And I wanted to  
4 touch on one last thing about the -- I know  
5 my colleague earlier mentioned ghost guns.

6 When that legislation came up, I  
7 raised one issue, that unfortunately the  
8 possession of a ghost gun right now would be  
9 an E felony. And, you know -- as you know,  
10 if you have a firearm with an untraceable  
11 serial number, it's a D felony.

12 Do you think that it would help with  
13 investigations if it was a D felony for a  
14 ghost gun? Because as we know, as an  
15 E felony, with bail reform it currently is  
16 eligible for a desk appearance ticket.

17 ACTING SUPERINTENDENT BRUEN: Well, I  
18 hate to repeat myself and say I'm not going  
19 to comment on pending legislation, but I'm  
20 going to do that.

21 I am going to say the ghost gun  
22 situation has me concerned.

23 ASSEMBLYMAN REILLY: Thank you,  
24 Mr. Superintendent. I appreciate it.



1 Thank you, Madam Chair.

2 CHAIRWOMAN KRUEGER: Thank you, Mike.

3 I think our last Assemblymember, or  
4 the last hand I see up, is Chris Burdick.

5 ASSEMBLYMAN BURDICK: Thank you, I  
6 appreciate it.

7 And thank you for the testimony. And  
8 I also echo the words of Ken Zebrowski to  
9 thank you and your officers for the heroic  
10 work that you've done during the pandemic.  
11 We greatly appreciate it.

12 There's been a great deal of  
13 discussion in this line of questioning  
14 regarding enforcement issues in the event of  
15 the possible legalization of recreational  
16 marijuana. I echo the concern on training  
17 for local police departments and do hope that  
18 there can be coordination in that regard. I  
19 think that would be very helpful.

20 I had a question regarding if you  
21 happen to know whether any of the funds that  
22 would be raised from this, in taxes and fees,  
23 would be going to any kind of drug  
24 prevention, drug abuse prevention programs?

1           It may not be your wheelhouse, and I can  
2           check elsewhere.

3                     ACTING SUPERINTENDENT BRUEN:  It is  
4           not my wheelhouse.

5                     ASSEMBLYMAN BURDICK:  Okay.  A  
6           different question is the question regarding  
7           enforcement.

8                     Have you folks looked at what's going  
9           on in other states with respect to whether or  
10          not the measures that they use, the  
11          instrumentation that you described, have been  
12          effective in getting dangerous drivers off  
13          the road?  Do you feel confident that you're  
14          going to be able to do that effectively?.

15                    ACTING SUPERINTENDENT BRUEN:  We've  
16          looked at data from other states on a wide  
17          range of issues about legalization.  I have  
18          contacted and had conversations with my  
19          opposite numbers in other states.

20                    And I keep going back to the fact that  
21          we do this already, we do this job already.  
22          We make arrests for impaired operation based  
23          on the use and THC intoxication.  We do it.  
24          And I feel like I have every confidence in my

1 Troopers that they'll be able to do this.

2 ASSEMBLYMAN BURDICK: That's very  
3 helpful to know, and reassuring.

4 Thank you very much.

5 CHAIRWOMAN KRUEGER: Thank you.

6 So it is my wheelhouse, since I am the  
7 lead sponsor of the MRTA bill in the Senate  
8 that Crystal Peoples-Stokes carries in the  
9 Assembly.

10 And so the answer is that in our bill  
11 we hope that up to 25 percent of the revenues  
12 from legalized adult recreational use of  
13 marijuana would go towards drug treatment for  
14 serious, dangerous drug addictions and  
15 education to discourage people, particularly  
16 young people, from using drugs. Chris, so  
17 that's the answer to that.

18 I also want to thank the acting  
19 superintendent. I am very confident his  
20 State Troopers are perfectly capable of  
21 handling impaired driver stops, because as he  
22 just said, they do it every day.

23 You know, there's a lot of things  
24 people can have opinions about with

1 marijuana, but the one we really need to  
2 agree on, it's already here. It may not be  
3 legal, but it's already here and being used  
4 more than pretty much any other drug in the  
5 State of New York, so many of these questions  
6 aren't really new questions.

7 I do have one final question for you,  
8 Superintendent. So in the last year, the  
9 pandemic has changed almost everything in our  
10 lives. What are the State Police doing in my  
11 city nowadays? What do you have them doing?

12 ACTING SUPERINTENDENT BRUEN: In  
13 New York City?

14 CHAIRWOMAN KRUEGER: Yes, sir, I'm  
15 from New York City.

16 ACTING SUPERINTENDENT BRUEN: We  
17 provide a number of roles and do a number of  
18 missions in New York City -- our presence,  
19 obviously, at the transportation hubs, the  
20 train stations, the bridges and tunnels. We  
21 are also at the airports.

22 We have investigators that follow --  
23 that are on the Hate Crimes Task Force in the  
24 city. We have investigators assigned to the

1 Joint Terrorism Task Force and investigators  
2 that work closely with the Drug Enforcement  
3 Agency on very large narcotics cases, just to  
4 name a few of the missions.

5 CHAIRWOMAN KRUEGER: And so you still  
6 believe that the number of State Troopers  
7 assigned to New York City is a justified use  
8 of your budget costs?

9 ACTING SUPERINTENDENT BRUEN:  
10 Absolutely. It gives us flexibility to do  
11 things, act in certain missions that are  
12 specific, and flexibility to act. I feel it  
13 is justified.

14 I have to tell you also it has been a  
15 particular benefit with recruiting minority  
16 members. The folks in the city are able to  
17 see the Troopers doing their work in the  
18 great uniform, looking great, and they can  
19 picture themselves doing the job. And it's  
20 been a true benefit to us.

21 CHAIRWOMAN KRUEGER: That's very good  
22 news.

23 On behalf of us all, thank you for  
24 your work, thank you for your members' work.

1 And we are going to excuse you for the day.

2 ACTING SUPERINTENDENT BRUEN: Thank  
3 you.

4 CHAIRWOMAN KRUEGER: Thank you.

5 And because it is now 6:10 and we  
6 started at 9:30 this morning, I am allowing  
7 myself a three-minute nature visit. And  
8 everybody should just either also explore  
9 nature for three minutes, or whatever you  
10 like. Just don't go anywhere, because it's a  
11 very fast three minutes. Thank you.

12 (A brief recess was taken from 6:11 to  
13 6:14 p.m.)

14 CHAIRWOMAN KRUEGER: We are now  
15 starting the part of the hearing where people  
16 who have asked to testify will be called up  
17 in panels. You'll have three minutes, each  
18 person on the panel. Then people who want to  
19 ask you questions, whether they are chairs or  
20 not, only get three minutes in total to ask  
21 the panel questions and get answers.

22 So I like to describe this part as  
23 speed dating. But it's also important to  
24 know that when you hear a question from a

1 legislator, you know you want to follow up  
2 with them afterwards because you know you  
3 have more information for them than you can  
4 possibly give them in this ridiculously short  
5 period of time.

6 For people who did not get to sign up  
7 to testify because they asked too late and  
8 there were no more slots left -- and I  
9 apologize, we had to turn a lot of people  
10 down -- you can still submit your testimony,  
11 it will still go to all of us, it will still  
12 be up for the public to view.

13 And I always advise the testifiers, if  
14 you think you're going to read your  
15 testimony, that will be a mistake. You only  
16 have three minutes. You want to highlight  
17 the most important part of your testimony as  
18 far as what you're prioritizing in  
19 relationship to the state budget this year.

20 The one thing I can say with  
21 confidence is we are all readers. All the  
22 legislators actually can read, and so we have  
23 full testimony in front of us or on our desks  
24 or in our computers or all of the above.

1           So having said that as the rules of  
2           the road for the rest of this hearing, I'll  
3           now introduce our first three panelists. And  
4           they will do it perfectly, and then everybody  
5           will know what I was talking about.

6           So we have Kristin Brown, from the  
7           Empire Justice Center; we have Laura Abel,  
8           from the Lawyers Alliance for New York; and  
9           we have the New York Legal Services  
10          Coalition, Molly Clifford.

11          Hello, good evening. Kristin, you get  
12          to go first.

13          MS. BROWN: Thank you. Thank you so  
14          much.

15          Good evening, my name is Kristin  
16          Brown. I'm the president and CEO of Empire  
17          Justice Center. We're a statewide legal  
18          services and advocacy organization for  
19          low-income New Yorkers outside of New York  
20          City.

21          For my time today I'm going to  
22          highlight two trends and focus on the  
23          importance of your continued support for  
24          allocation of the Legal Services Assistance



1 Fund.

2 We can all agree that COVID has really  
3 revealed deep structural inequities in our  
4 society and made existing problems more acute  
5 and complex for people in low-income  
6 communities. In the area of legal services,  
7 we find problems such as unemployment,  
8 eviction, lack of benefits, intimate partner  
9 violence, and removal proceedings that may  
10 have been navigated separately through  
11 different attorneys and organizations, are  
12 now melded by the pandemic into a single  
13 landscape, often with an attorney as the main  
14 person who's triaging services and providing  
15 advice in a number of different areas. And  
16 this is a shift that we have had to navigate  
17 to meet the needs of our clients.

18 A second noticeable trend is the  
19 digital divide. Reliance on technology has  
20 created very deep disparities between people  
21 who have tech skills and resources and those  
22 who don't. For example, during nursing home  
23 fair hearings and foreclosure proceedings,  
24 our clients often lack computers, technical

1 skills and reliable internet access to take  
2 advantage of virtual hearings.

3 For Empire Justice attorneys, the  
4 pandemic has made it harder to collect  
5 evidentiary proof, maintain attorney-client  
6 privilege in the virtual setting, and have  
7 sidebar negotiations.

8 A Chief Judge's permanent commission  
9 is studying how to -- examining the digital  
10 divide, and this is something we urge the  
11 Legislature to look at.

12 These trends are just part of the  
13 urgent need to fund civil legal services to  
14 help low-income communities cope with the  
15 pandemic and navigate structural  
16 complexities. For Empire Justice, the JCLS  
17 and Legal Services Assistance Fund money  
18 allows us to provide representation to  
19 immigrants, individuals who are unemployed,  
20 and families with special-needs students,  
21 among others, and to provide training and  
22 technical assistance for students as well as  
23 frequently answer questions for folks. We've  
24 had over 9,000 people access our Unemployment

1 Frequently Asked Questions.

2 To support this work, we urge you to  
3 support the Legal Services Assistance Fund,  
4 including domestic violence legal services at  
5 last year's levels.

6 I also want to highlight that in spite  
7 of your much-appreciated support last year,  
8 none of the LSAF or domestic violence funding  
9 for the current year, which goes to provide  
10 services all across the state, has been paid  
11 to providers. Nothing.

12 We understand this is a very  
13 challenging time for most people, and there's  
14 a budget deficit. But the LSAF funds have  
15 their own revenue source, they don't come out  
16 of the General Fund, and they do play a  
17 crucial role in providing -- pursuing life's  
18 basic necessities for low-income New Yorkers.

19 So we look forward to working with you  
20 all to make sure that this crucial funding is  
21 available for both this year's LSAF and the  
22 one to come.

23 Thank you for your time.

24 CHAIRWOMAN KRUEGER: Thank you.

1           Next, Laura Abel.

2           MS. ABEL: Thank you. Thank you for  
3 this time. And I will be brief.

4           I'm Laura Abel. I'm senior policy  
5 counsel with Lawyers Alliance for New York.  
6 We are a nonprofit law office that provides  
7 business and transactional legal assistance  
8 to the nonprofits that serve low-income  
9 communities in New York City.

10           Last year, in the last days of budget  
11 negotiations as the pandemic was closing  
12 everything down, an unfunded administrative  
13 burden on thousands of charities was inserted  
14 into the Public Protection and Good  
15 Government Article VII bill. The apparent  
16 goal of that provision was to track the flow  
17 of resources from 501(c)(3) public charities  
18 to 501(c)(4) social welfare organizations  
19 that engage in a lot of lobbying or in  
20 certain types of issue advocacy.

21           But perhaps unintentionally, the bill  
22 swept way, way too broadly. As a result,  
23 thousands of charities that have nothing to  
24 do with social welfare organizations have a

1 new, completely unnecessary bureaucratic  
2 hurdle this year. They have to take the  
3 annual financial reports that they already  
4 file with the Charities Bureau and file them  
5 again with the Department of State. They  
6 have to pay a second filing fee and deal with  
7 the Department of State's different and  
8 earlier filing deadline. But perhaps most  
9 importantly, they have to worry about a  
10 potential threat to the privacy of their  
11 major donors.

12 The Charities Bureau has decades of  
13 experience and careful procedures in place to  
14 protect the privacy of people who contribute  
15 to these purely nonpolitical charitable  
16 organizations. The Department of State  
17 doesn't.

18 This year's one-house bills should fix  
19 last year's overstepping, they should eliminate  
20 the dual filing requirement, they should  
21 implement measures to protect privacy. In my  
22 written testimony I've pointed you to an  
23 Assembly bill that has language that could fit  
24 very easily in the one-house bills.

1 Thank you.

2 CHAIRWOMAN KRUEGER: Thank you.

3 And Molly.

4 MS. CLIFFORD: Thank you.

5 I'm Molly Clifford, and I'm the  
6 interim executive director of the New York  
7 Legal Services Coalition. We're a nonprofit  
8 consisting of 49 civil legal services  
9 providers. Collectively we serve every  
10 New York State county and provide  
11 high-quality legal services to hundreds of  
12 thousands of low-income families in New York  
13 every year.

14 Civil legal services address a  
15 fundamental gap in access to justice: The  
16 gap between low- and moderate-income  
17 households in need of legal aid and the  
18 number who can be helped by our providers.  
19 For decades that gap remained at a troubling  
20 80 percent. Thanks to ongoing support from  
21 the Legislature, state agencies and the  
22 Judiciary, CLS providers in New York have  
23 narrowed that chasm to approximately  
24 60 percent.

1           While this is a positive trend, there  
2           are certainly significant needs that remain,  
3           made worse by the pandemic, particularly  
4           among low-income New Yorkers and communities  
5           of color.

6           At the coronavirus peak, our network  
7           effectively pivoted their workforces to meet  
8           heightened demand to ensure New York's  
9           families hit disproportionately hard by the  
10          pandemic have a sense of stability during  
11          this time of crisis. Amidst these staffing  
12          demands, staff continues to work within our  
13          many practice areas, including domestic  
14          violence, eviction, foreclosure and  
15          immigration matters.

16          Some matters, especially economic and  
17          housing stability, are being exacerbated by  
18          the pandemic and will affect families  
19          throughout 2021 and beyond. We're  
20          particularly concerned about the eviction and  
21          foreclosure moratoria, which upon expiration  
22          will bring a tidal wave of evictions and  
23          result in sharp increases in homelessness in  
24          the communities we serve.

1           We stand ready to meet these new and  
2           shifting demands, and appreciate the joint  
3           efforts of the Legislature and OCA to support  
4           legal services funding. We respectfully ask  
5           for continued state support in two key areas:  
6           Restore and increase funding for civil legal  
7           services through the Legal Services  
8           Assistance Fund, and restore 10 percent for  
9           civil legal services programs in the  
10          Judiciary Budget, including \$85 million to  
11          help bridge the gap and continuing the  
12          15 million supplemental appropriation for the  
13          IOLA to fund its grantees.

14           The JCLS program is by far the largest  
15          source of support for our members. On  
16          average, our members' budgets consist of over  
17          50 percent in state funding, and JCLS  
18          comprises nearly half of that amount. It is  
19          especially important because it gives our  
20          providers the flexibility to allocate funds  
21          to the most substantive needs in their own  
22          communities.

23           The JCLS program has been reduced by  
24          10 percent, and we caution that the resulting



1 cuts will be borne by our most underserved  
2 and marginalized communities. We appreciate  
3 that local assistance reductions are being  
4 reduced to 5 percent under the Governor's  
5 budget. Should sufficient federal funding be  
6 realized, we urge that these amounts and  
7 Judiciary funding be restored in full.

8 Thank you very much.

9 CHAIRWOMAN KRUEGER: Thank you very  
10 much.

11 Any questions? I don't see any hands  
12 up.

13 We're going to move quickly, so if you  
14 don't put your hand up -- nope? All right.  
15 Thank you very much, ladies. Appreciate your  
16 being with us tonight. Thank you.

17 Next panel: New York State Health  
18 Foundation; Veterans Advocacy Project; Center  
19 for Court Innovation; Fund for Modern Courts;  
20 and the New York State Coalition Against  
21 Domestic Violence. Sometimes I was  
22 stretching a little when combining into  
23 panels, but I did my best to be thematic.

24 David Sandman, from New York State

1 Health Foundation. Nope, you're on mute.  
2 See if you can get your mute off. There we  
3 go. All right --

4 DR. SANDMAN: Thank you, Madam Chair,  
5 for the Zoom advice. Thanks for the  
6 opportunity to testify before this hearing.

7 I'm Dr. David Sandman, the president  
8 and CEO of the New York State Health  
9 Foundation, and I am here today to speak on  
10 behalf of creating universal access to  
11 veterans treatment courts, or VTCs, for every  
12 veteran in New York who needs one. And a  
13 simple transfer policy that is proposed in  
14 the Executive Budget would make universal  
15 access a reality.

16 VTCs provide an alternative to  
17 incarceration for veterans who encounter the  
18 criminal justice system and who have a mental  
19 health and/or substance use issue. They  
20 provide treatment and services instead of  
21 jail. And I've provided details in my  
22 written testimony about the history and  
23 benefits of VTCs and why a transfer policy is  
24 needed.

1           I'll use my brief time today to tell  
2           you about a veteran whose name is Nick. He  
3           comes from Western New York. Nick is a  
4           Marine sergeant who joined the military after  
5           the 9/11 attacks. He did two difficult  
6           combat tours in Afghanistan, and when he came  
7           home he felt isolated, had a hard time  
8           readjusting. He was drinking heavily, became  
9           addicted to drugs. He ended up homeless,  
10          living in his car in a Walmart parking lot.  
11          And when he was found, he was arrested for  
12          narcotics possession.

13                 Nick was not a danger to anyone  
14          besides himself. He didn't need jail, he  
15          needed treatment. And Nick's mom had heard  
16          about the Monroe County Veterans Treatment  
17          Court.

18                 As Nick puts it, the judge was the  
19          first authority figure he'd ever encountered  
20          since leaving the military who showed him  
21          respect. She thanked him for his service,  
22          she helped him to get out of jail, got him  
23          into treatment, and Nick says that it saved  
24          his life.

1           He graduated from the VTC, and today  
2 Nick is thriving, has a family, completed his  
3 education, and himself works in government  
4 service now.

5           The evidence is clear: VTCs work.  
6 Research shows that they are associated with  
7 lower rates of recidivism, they have positive  
8 impacts on alcohol and drug use, mental  
9 health, housing stability, employment and  
10 interpersonal relationships.

11           There's lots of vets like Nick out  
12 there. Not all their stories are successful  
13 because, depending on where you live, you  
14 might not have access to a VTC. Only about  
15 half of the state's counties have one. And  
16 the transfer policy proposal proposed in the  
17 budget will fix this. It will allow a case  
18 to be moved from a county without a VTC to a  
19 neighboring county with one.

20           It's simple, effective, it means the  
21 vets won't languish in a justice system  
22 that's not equipped to deal with their  
23 challenges. It's a point of pride -- the  
24 first VTC in the nation was started about a

1 decade ago, in Buffalo, New York. As their  
2 birthplace, it's only right that we should  
3 have the largest and best system in the  
4 nation. And a transfer policy will allow  
5 New York to become the national beacon and  
6 remain the beacon for Veterans Treatment  
7 Courts.

8 Thank you.

9 CHAIRWOMAN KRUEGER: Thank you very  
10 much, Doctor.

11 Next, Veterans Advocacy Project, Coco  
12 Culhane.

13 MS. CULHANE: Hi. Thank you.

14 I'm executive director of Veteran  
15 Advocacy Project. And David's a tough act to  
16 follow. I want to echo everything he has  
17 said. And I was thrilled today to hear how  
18 much support there is for Veteran Treatment  
19 Courts.

20 And, you know, if there's a theme to  
21 my testimony here, it would be to leave no  
22 one behind. You know, one person is not more  
23 worthy of redemption or recovery because of  
24 the county they live in. So a transfer

1 policy is an easy way to increase access to  
2 justice.

3 My organization specializes in working  
4 with veterans with less-than-honorable  
5 discharges. And I just wanted to also say  
6 that the support services for these courts --  
7 the peer mentors, all of the different  
8 components that come together -- are so  
9 important because there's a very high ratio  
10 of veterans with less-than-honorable  
11 discharges in Veterans Treatment Court, and  
12 they can't access the VA.

13 So we're talking about a population  
14 that is extremely vulnerable. Often they  
15 have been discharged less than honorably due  
16 to symptoms of posttraumatic stress or  
17 traumatic brain injury, such as  
18 self-medication, getting into fights, things  
19 like that. And when they get out, they're  
20 seen as having a criminal record and they --  
21 you know, having a less-than-honorable  
22 discharge is the second-highest predictor of  
23 homelessness. If you've been discharged for  
24 misconduct you are almost three times as

1           likely to die by suicide than other veterans,  
2           which is already at way too high of a rate.

3                        So we're talking about a really  
4           vulnerable population that's essentially been  
5           failed by the military justice system and is  
6           now entering the civilian one.  And Veteran  
7           Treatment Courts are so important and so  
8           vital.

9                        My organization works with several.  
10          We're so lucky in New York City to have I  
11          think six or seven courts now.  The thing is,  
12          we can -- it's easy to forget -- we have so  
13          many resources in the city it's easy to  
14          forget that veterans around the state really  
15          don't have those options.

16                       And in particular, you know, even in  
17          New York City, these veterans can't work with  
18          the VJOs, the veterans justice outreach  
19          social workers who are such a vital piece of  
20          connecting these veterans to treatment.

21                       So again, just -- that's why these  
22          support services, all of the different  
23          players that come together to make Veteran  
24          Treatment Courts what they are, are so

1           important. And I hope that the Legislature  
2           will support those programs that are working  
3           with all the veterans, because everybody does  
4           deserve that second chance.

5                       Thanks.

6                       CHAIRWOMAN KRUEGER: Thank you very  
7           much.

8                       Next, the Center for Court Innovation.

9                       MR. CORREIA: Good evening. My name  
10          is Shane Correia, and I work at the Center  
11          for Court Innovation.

12                      Based on the amount of time, I'll dive  
13          right into the areas that our upstate and  
14          downstate programs and research seem  
15          well-suited to contribute to public discourse  
16          on.

17                      In the first topic, reducing  
18          unnecessary incarceration, last week we  
19          released a fact sheet on the impact of bail  
20          reform in New York State, exploring popular  
21          opinions, what the data says, and what we  
22          know from operating pretrial diversion  
23          programs. We hope that this will be useful  
24          in exploring the issue through facts.



1           For example, in response to attempts  
2           to tie gun violence to bail reform, we  
3           provide an analysis that shows that of the  
4           528 shootings through June 20th in New York,  
5           only one was released due to bail reform.

6           The second topic is the shrinking  
7           footprint of police. During the summer calls  
8           for police reform, we released a document  
9           spanning six areas of practice we operate  
10          programs in that can help shrink the  
11          footprint of police.

12          As an example, we suggest supporting  
13          families when they appear in other parts of  
14          the justice system. In our Strong Starts  
15          program that supports children under three in  
16          child neglect cases with a clinical  
17          coordinator, we have data that shows that  
18          50 percent of those parents were previously  
19          the subject child of a prior neglect  
20          proceeding with their own caregiver.

21          The goal of me sharing this example of  
22          shrinking the footprint of police is because  
23          it seems slightly off-center for police  
24          responses, and yet a criminal arrest can

1 trigger a child neglect proceeding and have  
2 intergenerational impacts if not sufficiently  
3 addressed. Meaningfully helping them at this  
4 point of their needs can have a profound  
5 long-term impact.

6 The third topic is housing as a  
7 justice issue. Many New Yorkers are  
8 anticipating a crush of Housing Court cases  
9 when current protections end. It's important  
10 to understand the spectrum of effective  
11 models for protecting tenants.

12 Models such as housing resource  
13 centers can help residents stay in their  
14 homes for issues like avoiding default  
15 judgements for non-appearance or lapsed  
16 annual certification for public housing.  
17 These are both issues that require legal  
18 information, not necessarily legal  
19 representation to keep New Yorkers housed.

20 Finally, on the topic of anti-gun  
21 violence, we want to add research to the  
22 calls for increased access to gun violence  
23 prevention programs. Over the summer we  
24 released a report entitled "Gotta Make Your

1 Own Heaven," where we utilized participatory  
2 research with credible individuals within the  
3 communities we serve to examine why youth are  
4 carrying guns.

5 One finding is that a lack of safety  
6 from other youth and police are motivating  
7 gun possession.

8 We hope that the state can continue to  
9 support programs like ours that are asked to  
10 create a sense of safety in environments that  
11 are more expansive than the funded catchment  
12 areas that we operate in.

13 Thank you for giving me the  
14 opportunity to sprint through this overview  
15 of how we believe our research and  
16 programming can help to continue the sense of  
17 public safety and trust in New York.

18 CHAIRWOMAN KRUEGER: Thank you very  
19 much.

20 Our next is Fund for Modern Courts.

21 MR. SILVERMAN: Good evening, and  
22 thank you. My name is Bill Silverman. I am  
23 the chair of the Fund for Modern Courts. I'm  
24 also a partner at Proskauer, where I have the

1 privilege of running their pro bono program.

2 Modern Courts is an independent,  
3 nonpartisan, statewide court reform  
4 organization. And I'd like to emphasize two  
5 main points tonight.

6 First, the 10 percent spending cuts  
7 that have been imposed on the court system  
8 have in fact affected access to justice. We  
9 are seeing significant cuts in staffing based  
10 on the hiring freeze. We're seeing cuts to  
11 legal services organizations at a time when  
12 the need is getting much worse, much greater.  
13 And we're seeing, obviously, the separation  
14 of the 46 senior judges.

15 Those cuts could not have come at a  
16 worse time, at a time when COVID-19 is  
17 affecting the most vulnerable among us.  
18 Those cuts are occurring at a time when the  
19 court system is already underresourced. As  
20 we all know, in 2011 the court endured a  
21 multi-million-dollar -- \$170 million in cuts.

22 Given the growing backlog of cases,  
23 the central role that the courts play in  
24 access to justice, we believe that the budget

1           should be approved, and we'd also like to see  
2           the 10 percent cuts restored at some point.

3                     I want to briefly address the issue of  
4           backlogs, because I think it raises a  
5           question of fairness and equity during COVID.  
6           We're not seeing massive backlogs in the  
7           Supreme Court, where people are generally  
8           represented and where proceedings are  
9           virtual. We're seeing backlogs in the  
10          Family Court. We're seeing backlogs in the  
11          Housing Court. These are courts that serve  
12          poor people.

13                    The backlogs are affecting people of  
14          limited means. They're affecting people of  
15          color. And they're affecting them  
16          disproportionately during a time of crisis,  
17          and that's unacceptable.

18                    So this leads me to the second point  
19          that I want to make today, which is that we  
20          need to restructure the court system. Having  
21          11 separate and distinct trial courts in the  
22          best of times is completely inefficient.  
23          Having them now, during a time of crisis,  
24          makes it very difficult for the court system

1 to consolidate resources. It makes it  
2 difficult for them to reassign judges. It  
3 makes it difficult for them to get resources  
4 to the courts that are serving people of  
5 limited means.

6 Pre-COVID I think we were making  
7 progress, and I urge the Legislature to take  
8 up court simplification at the earliest  
9 possible time.

10 I want to thank you for this  
11 opportunity. I also want to thank the  
12 elected officials, the people who also are  
13 testifying, and all the staff for your public  
14 service. Thank you.

15 CHAIRWOMAN KRUEGER: Thank you very  
16 much.

17 And then the New York State Coalition  
18 Against Domestic Violence, John {sic}  
19 Gerhardt.

20 MS. GERHARDT: Thank you for the  
21 opportunity to speak today. I'm Joan  
22 Gerhardt, the director of public policy --

23 CHAIRWOMAN KRUEGER: (Inaudible.)

24 MS. GERHARDT: That's okay.

1                   CHAIRWOMAN KRUEGER: I called you John  
2 by mistake, I apologize.

3                   MS. GERHARDT: That's okay (laughing).

4                   I'm Joan Gerhardt, the director of  
5 public policy and advocacy at the New York  
6 State Coalition Against Domestic Violence.  
7 NYSCADV was established nearly 45 years ago,  
8 and we represent about 100 programs serving  
9 thousands of domestic violence survivors and  
10 their children across the state.

11                  Rather than review our specific budget  
12 priorities, which are described in detail in  
13 our written testimony, I'd like to use my  
14 time today to give you a sense for domestic  
15 violence in New York State and the challenges  
16 presented to domestic violence survivors and  
17 service providers, both before the pandemic  
18 and now.

19                  New York consistently has the highest  
20 demand for domestic violence services in the  
21 country, despite some states being more  
22 populated. And as has been widely reported,  
23 this demand has significantly increased  
24 during the pandemic. Thousands of adults and

1 children are in need of domestic violence  
2 services in New York each day. More  
3 troubling, thousands of requests can't be met  
4 because of declining or stagnant funding.

5 Since last March, in order to meet the  
6 rising demand and do it safely, domestic  
7 violence programs have spent thousands of  
8 dollars on unbudgeted items like PPE,  
9 cleaning supplies, noncommunal food service,  
10 and new technologies.

11 New York's domestic violence advocates  
12 have acted heroically, staffing shelters at  
13 their own personal risk, learning to provide  
14 services to survivors in new ways that still  
15 enhance safety -- even providing crisis and  
16 trauma counseling to survivors from their own  
17 homes.

18 And yet at the same time, domestic  
19 violence programs are getting less funding.  
20 That's because New York's antiquated per diem  
21 reimbursement system only reimburses programs  
22 when survivors are in shelter. During the  
23 pandemic, many survivors haven't chosen to  
24 enter shelter. Plus many shelter beds can't



1 be used due to social distancing and  
2 quarantine requirements.

3 Add on to that the 20 percent  
4 reduction in county contracts with local  
5 providers, and you have a perfect storm.  
6 It's not an exaggeration to say that  
7 New York's domestic violence programs are  
8 barely getting by. They're using financial  
9 reserves, opening lines of credit, reducing  
10 staff, just to keep the doors open and the  
11 lights on.

12 Domestic violence programs reported to  
13 us in November that their shelter occupancy  
14 decreased as much as 30, 40, even 55 percent.  
15 That means that the revenues New York  
16 provides to programs decreased in kind. We  
17 estimate these losses to the statewide system  
18 to total approximately \$1 million a month.  
19 That's 10 million since the pandemic began.  
20 Obviously this isn't sustainable for long.

21 We urge the Legislature to make  
22 emergency funding available to those domestic  
23 violence programs that can demonstrate  
24 documented losses. The state must ensure

1 domestic violence services remain available  
2 and accessible to all who need them.

3 Thank you.

4 CHAIRWOMAN KRUEGER: Thank you. I  
5 really shouldn't eat my food at the same  
6 time. Sorry.

7 Are there questions for anyone on the  
8 panel?

9 I have one for the domestic violence.  
10 So the state's rules in your contracts are  
11 the bed has to be filled in order for you to  
12 be reimbursed. So how would you -- what  
13 would you suggest we change so that the state  
14 was paying you but paying you for empty beds?  
15 That's a challenge for us.

16 MS. GERHARDT: Well, it shouldn't be.  
17 You know, programs have operating costs, just  
18 like any other not-for-profit.

19 And we're bifurcating the services  
20 right now that these programs are providing.  
21 Residential services get reimbursed through  
22 this per diem, and all the other  
23 nonresidential services that programs provide  
24 are -- you know, with contracts with the

1 county DSSs.

2 We'd like to see these services  
3 merged -- New York State is the only state  
4 that does it this way -- and that we provide  
5 funding to programs for the services in  
6 totality that they provide. So removing it  
7 from a per diem entirely.

8 CHAIRWOMAN KRUEGER: Thank you.

9 I see Senator John Liu with his hand  
10 up. I did see Senator John -- yes, there you  
11 are.

12 SENATOR LIU: Thank you, Madam Chair.  
13 I know they don't want me to show my -- oh,  
14 there we go. All right, thank you very much.

15 I want to thank this panel for their  
16 testimony. I just have a quick question for  
17 Mr. Silverman.

18 You spoke of supporting the  
19 reorganization of our state's judiciary. And  
20 are you in support of the proposals that the  
21 Chief Justice has already made? Is that the  
22 specific proposal and reorganization that you  
23 support?

24 MR. SILVERMAN: Yes, Senator, that's

1 exactly the proposal that we support.

2 SENATOR LIU: Okay. That's very  
3 helpful. Thank you very much.

4 Thank you, Madam Chair.

5 CHAIRWOMAN KRUEGER: Thank you.

6 And the chair of our Judiciary  
7 Committee in the Assembly, Chuck Lavine.

8 ASSEMBLYMAN LAVINE: Thank you,  
9 Madam Chair.

10 This will be the best political speech  
11 of all time. Sincere thanks to each of you  
12 for what you do. Thank you very much.

13 CHAIRWOMAN KRUEGER: Thank you.

14 Indeed, thank you all very much for  
15 what you do.

16 All right, our next panel, we have the  
17 PBA of New York State, Manuel Vilar; the  
18 New York State Police Investigators  
19 Association, Timothy Dymond; the  
20 Police Conference of New York, Richard Wells;  
21 the New York State Association of PBAs,  
22 Michael O'Meara; and the New York State  
23 Troopers PBA, Thomas Mungeer.

24 And I will ask Manuel Vilar to start

1 us off. Do we have you?

2 VICE PRESIDENT VILAR: There we go, I  
3 think we're unmuted.

4 Hello, Chairwomen Krueger and  
5 Weinstein and other members of the  
6 Public Protection Committee. Thank you for  
7 your continued support and interest in the  
8 men and women of the Police Benevolent  
9 Association of New York State. My name is  
10 Manuel Vilar. I'm the founding president and  
11 current vice president. I'm also a  
12 37-year-veteran sergeant of the New York  
13 State Park Police.

14 I'm here today to advocate for the  
15 merger of the Park Police into the New York  
16 State Police, Senate Bill 4647. There will  
17 be a same-as in the Assembly on deck soon.  
18 The Park Police is a division of OPRHP and is  
19 currently under command and control of the  
20 Division of State Police.

21 New York state parks, by their very  
22 nature, are geographically challenging,  
23 beautiful, and yet dangerous places. To  
24 perform these duties, New York State Park

1 Police officers receive the same training as  
2 State Troopers, plus specialized training to  
3 be prepared to assist patrons when crimes,  
4 accidents and other life-threatening  
5 incidents occur.

6 State Park Police, with their  
7 specialized training in snowmobiling,  
8 high-angle rope and swiftwater rescue, to  
9 name a few, are a critical part of New York  
10 State's response to natural disasters,  
11 weather emergencies and other catastrophic  
12 events, including the current civil unrest in  
13 multiple cities throughout New York State.

14 During the current COVID-19 crisis,  
15 State Park Police have been at the forefront  
16 of protecting testing and vaccine sites, some  
17 located at various state parks, as well as  
18 non-state-park locations. Several State Park  
19 Police officers, including myself, have all  
20 contracted COVID-19.

21 The lack of State Park Police levels  
22 is quickly reaching crisis proportion. In  
23 the past 15 months we've seen a 15 percent  
24 reduction in staff. In fact, since 2000,

1 State Park Police have graduated over 500  
2 officers, only to have 53 percent -- 255  
3 officers -- leave for other police  
4 departments with better pay, 20-year pension,  
5 and disability protections. The cost to  
6 New York State to train all those police  
7 officers over 16 Park Police academies, has  
8 been roughly \$80 million.

9 The second issue adversely impacting  
10 our members -- and not only the Park Police,  
11 but all four police forces in the PBA -- is  
12 the slow-walking by the Governor's office of  
13 the 2015-2018 binding arbitration award.  
14 This has left PBA members stuck at salary  
15 levels from 2014. Our members have not had a  
16 raise since 2014, despite having a binding  
17 arbitration award in place.

18 Because of State Parks' inability to  
19 operate and maintain a viable, functioning  
20 State Park Police force, for the safety of  
21 the public and our members we are requesting  
22 that the State Legislature pass the New York  
23 State Trooper-Park Police Merger Bill that we  
24 have submitted and include the Governor's

1 program bill enacting the terms of the  
2 2015-2018 binding arbitration award. We  
3 believe this would go a long way to making  
4 state parks much safer as well as spending  
5 tax dollars wisely.

6 Again, I'd like to thank you for this  
7 opportunity to speak to you, and I'm happy to  
8 answer any questions anyone may have.

9 CHAIRWOMAN KRUEGER: Thank you very  
10 much. Just a smidge past the three minutes.

11 Timothy Dymond, New York State Police  
12 Investigators Association.

13 PRESIDENT DYMOND: Yes, ma'am. Good  
14 afternoon, Senate and Assembly members. My  
15 name is Tim Dymond, and I am a senior  
16 investigator with the New York State Police.

17 And I am the elected president of  
18 NYSPIA, the New York State Police  
19 Investigators Association. I represent  
20 approximately 1100 investigators and senior  
21 investigators across the State of New York,  
22 and we cover all the heavies. We handle the  
23 felonies, the murders, the rapes, the  
24 robberies, the human trafficking, the gang



1 violence. That's the stuff that my  
2 membership does.

3 NYSPIA's members are hand-selected  
4 from the most highly trained uniformed  
5 Troopers and represent some of the best that  
6 our agency has to offer. My membership,  
7 along with every police agency in the  
8 country, is dealing with historic policy  
9 change, a job expectation that seemingly  
10 changes by the day. Our members have  
11 displayed a strength, a resilience and a  
12 compassion that I'm incredibly proud of  
13 through what has been one of the most  
14 difficult times law enforcement officers have  
15 dealt with nationwide.

16 We as an agency have proven to be  
17 highly adaptable to the rush of current law  
18 enforcement reforms, and we continue to take  
19 a leadership role in the law enforcement  
20 community, maintaining the highest quality  
21 services to the citizens of New York.

22 Our highest priority this year is the  
23 same as most years: It's the replacement of  
24 retired members. Our members are leaving at

1 a breakneck pace. We have approximately lost  
2 20 percent of our senior investigators  
3 statewide. Those investigators supervise all  
4 these investigative units around the state,  
5 and losing them has caused our investigator  
6 ranks to now be depleted.

7 We are now at what I would say is a  
8 critical point where we need a class of  
9 Troopers. We can't have investigators if we  
10 don't hire Troopers.

11 Second, the automobile fleet. I'm  
12 happy to report that our fleet has improved,  
13 and a lot of that is a testament to the work  
14 the Legislature has done on the fleet. It is  
15 more diverse, it is younger. The diversity  
16 of our vehicles in the field helps our  
17 undercover units to remain concealed, which,  
18 as someone that was a senior investigator in  
19 the violent gang unit, is very important to  
20 me.

21 I have an issue in here for a UC gun  
22 program. We're looking for support from the  
23 Legislature to provide our undercover  
24 members -- and there's about 300 of them

1 scattered throughout New York State, in all  
2 cities, towns and villages -- we would like  
3 to get them a weapon that is easily concealed  
4 so they can remain safe in the field. If  
5 they are made to be police, it puts them at  
6 risk, and we want to keep them safe.

7 The proposed legalization of adult-use  
8 cannabis and online gambling will generate  
9 revenue. It will also generate some  
10 black-market crime that we are going to have  
11 to act on.

12 That's a sprint through. Thank you  
13 for listening to these important issues.

14 Law enforcement reform is a leading  
15 discussion topic right now in the country.  
16 As reforms are implemented, there's no  
17 question New York State Police will be looked  
18 upon to lead the charge professionally and  
19 respectfully. If the police, Legislature and  
20 members of these communities can bridge the  
21 gap and be the glue, we can cause positive  
22 change while keeping our communities safe.

23 Thank you.

24 CHAIRWOMAN KRUEGER: Thank you.

1 That's certainly what we all want.

2 Richard Wells, Police Conference of  
3 New York.

4 PRESIDENT WELLS: Good evening,  
5 everyone. Richard Wells, president of the  
6 Police Conference of New York, which is a  
7 coalition of over 200 local PBAs throughout  
8 the State of New York.

9 My comments this evening will be kind  
10 of an expansion on Commissioner Green's  
11 testimony earlier as regards training of  
12 police officers. We're asking that the  
13 Legislature consider establishing a statewide  
14 training curriculum for police officers,  
15 especially as regards to in-service training.

16 Currently there are certain standards  
17 that are in existence by the Bureau of  
18 Municipal Police and the Municipal Police  
19 Training Council, minimum standards that must  
20 be met, but that's as far as it goes.

21 In-service training is conducted  
22 sporadically throughout this state and very  
23 infrequently. Some jurisdictions don't do it  
24 at all. There are police officers that,

1 after they leave the academy, go through  
2 their entire career never receiving any  
3 further training. This is not good,  
4 especially in light of the current  
5 circumstances we find the police profession  
6 in.

7 Academy lengths differ throughout the  
8 state. In-service training is not done  
9 frequently enough. Due to changes enacted by  
10 the Legislature on use of force, retraining  
11 is necessary. Police officers encounter  
12 violent people every day. It is obvious that  
13 physical force, use of pepper spray, other  
14 chemical weapons or Tasers are now considered  
15 suspect and frowned upon.

16 Police officers are confused and  
17 bewildered on how to do their jobs. Cops are  
18 expected to keep the peace, enforce the law  
19 and make arrests without using any  
20 substantial force, deal with violent,  
21 emotionally disturbed persons, control riots.  
22 This necessitates innovative and increased  
23 training.

24 Increasing the length of the academy

1           should be considered. In-service training  
2           must be frequent and substantial so police  
3           officers are current on all law changes.

4           In the past, cost has always been  
5           cited as a reason not to do in-service  
6           training. The Legislature should give  
7           consideration to sufficient resources --  
8           applying sufficient resources to local police  
9           departments so that they can send all of  
10          their officers to training on a regular  
11          basis. Consideration should also be given to  
12          imposing sanctions on municipalities that  
13          fail to provide such training.

14          The cop on the street is held  
15          responsible for every action that he or she  
16          takes while they're working. They, however,  
17          do not and cannot schedule their own  
18          training. Police unions have no say in  
19          police training. Police chiefs have budget  
20          and personnel constraints.

21          Adequate and meaningful training will  
22          be difficult to implement. It will be  
23          expensive and time-consuming. But if the  
24          goal is to have police officers adapt to the

1 changing standards in the use of force and  
2 laws of arrest, then it is incumbent upon the  
3 Legislature to provide the funding and means  
4 to accomplish it. It cannot be an unfunded  
5 mandate. If it is, it will never happen.

6 The bill submitted yesterday by  
7 Senator Savino might be a good place to start  
8 this process.

9 Thank you.

10 CHAIRWOMAN KRUEGER: Thank you very  
11 much.

12 Michael O'Meara, New York State  
13 Association of PBAs.

14 PRESIDENT O'MEARA: Good evening.

15 CHAIRWOMAN KRUEGER: Good evening.

16 PRESIDENT O'MEARA: Thank you for  
17 letting me address you.

18 I wanted to start to talk about  
19 training as well. I'm Michael O'Meara. I am  
20 the president of the New York State  
21 Association of PBAs. It's an umbrella group  
22 that represents about 45,000 police officers  
23 in New York State. It's the largest umbrella  
24 group of police officers in the state.

1           Senator Savino did submit Senate Bill  
2           4706, I believe it was yesterday. And I  
3           believe that's a great place to start,  
4           because we have not had many conversations  
5           with legislators about police reform.

6           4706 proves that police reform does  
7           not have to equate to police punishment.  
8           Police reform can be a hand-in-hand process  
9           that we can help accomplish in this state,  
10          and we embrace that.

11          To expand a little bit on what Richie  
12          said and what the commissioner of DCJS said  
13          earlier, think about this. We've expanded  
14          our program to give new police officers  
15          700 hours of training. That's the basic  
16          minimum course. It sounds like a lot, right?  
17          But if a young man of 21 enters the  
18          police academy -- or a young woman -- on  
19          January 1st, by the end of April they're a  
20          police officer walking around with a gun,  
21          with a mace and with a Taser.

22          And after they leave that police  
23          academy, they don't go back for any training  
24          whatsoever. There's no training. We don't



1 go for training. You can go -- I'm in my  
2 31st year. I've never put my hands on  
3 anybody in a training aspect except when I'm  
4 in the police academy. When you explain that  
5 to people, they're horrified. They would  
6 think that in a profession where we are  
7 engaging the public at such a high level,  
8 that we would have to be trained.

9           Senator Bailey has a great bill in.  
10 And after our history over the last year or  
11 two, you'd think that's funny that I'm saying  
12 that. It's a great bill, mandates that  
13 police departments have to train police  
14 officers in firing their weapon at least once  
15 a year. Can you imagine that we have to  
16 legislate that? Because there is -- there is  
17 no policy, there's no procedure. So once we  
18 leave the police academy, we're out there.  
19 We're out there with the public. We don't go  
20 back. We don't get retrained.

21           We don't hire people -- police in  
22 police unions, you know, we don't hire  
23 people, we don't train people, we don't  
24 deploy people, we don't equip people, we

1 don't investigate people. We just represent  
2 police officers because we have a duty of  
3 fair representation. And somehow that makes  
4 us evil in some aspects.

5 But all I'm telling -- and thank you  
6 for letting me speak -- is that we need to  
7 have some budgetary money for in-service  
8 training for police officers that's mandated,  
9 mandated. That police officers should be  
10 trained at a high level, not just four months  
11 when they're in their 20s and then just go  
12 out and do the job.

13 So I appreciate Senator Savino's bill,  
14 and I appreciate you letting me speak. Thank  
15 you. And have a good night; I hope it ends  
16 quickly for you.

17 CHAIRWOMAN KRUEGER: Thank you.

18 And the last panelist, Thomas Mungeer,  
19 New York State Troopers PBA.

20 PRESIDENT MUNGEER: Thank you.

21 Madam Chair, members of the committee, I  
22 appreciate this opportunity.

23 This is actually my 12th time  
24 addressing this committee in my time as

1 president of the Troopers PBA. I represent  
2 6,000 active and retired Troopers, the  
3 uniformed Troopers that you see on the side  
4 of the road.

5 This is almost like the movie  
6 Groundhog Day. When I first started doing  
7 this job back in 2009, in 2010 I addressed  
8 this committee that we hadn't had an academy  
9 class. And we went three and a half years  
10 without an academy class, and our levels of  
11 manpower got dangerously low. And we had to  
12 start cutting services for the public.

13 Well, we -- our last class, the last  
14 Trooper we hired was in 2019. Last year we  
15 did not have a class. And this year there is  
16 no money budgeted for a class. So I'm  
17 offering a cautionary tale that I'd hate to  
18 see us go down that road where we were a  
19 little over a decade ago, with our manpower  
20 levels dwindling to dangerous levels.

21 And again, this is not the time to cut  
22 police services in our statewide capacity. I  
23 know that my superintendent had testified  
24 earlier today the different duties that we

1           have, and more duties are going to be heaped  
2           upon us with the legalization of marijuana  
3           and so forth.

4                     Right now I could use 300 Troopers. I  
5           need a class of at least 250 to get them up  
6           and going. And it takes 18 months to train a  
7           Trooper and get them onto the roads so they  
8           can ride by themselves. So we have to  
9           actually do this somewhat quickly. And  
10          again, I'd hate to be in this situation this  
11          time next year testifying before you when my  
12          manpower levels have dwindled even further.

13                    I'll echo my counterparts with the  
14          training. In the New York State Police we do  
15          have in-service. We have a vigorous  
16          in-service training program. And I believe  
17          it is good to use that as a model to bring  
18          all other police officers in the state up to  
19          that level with yearly training, and to also  
20          enact the different policies, the different  
21          law changes, the different training  
22          techniques that are out there. All police  
23          officers should have a yearly refresher in  
24          order to do this.



1 understand better just how difficult the  
2 police reform process will be in New York  
3 State.

4 When the Governor last year tasked  
5 each and every locality and each department  
6 with coming up with ways to make our police  
7 better and to reform their practices, one of  
8 the things that became glaringly evident is  
9 that we did not have a standard across the  
10 state. As Tommy Mungeer spoke, the State  
11 Police have the highest standards and they  
12 train regularly, but it became very clear  
13 very quickly that that was a rare instance  
14 across the state, including the largest  
15 police department in the state, which is the  
16 NYPD. So my legislation that we introduced  
17 yesterday answers that.

18 And we also heard earlier tonight the  
19 commissioner of DCJS talk about how they've  
20 proposed a new training curriculum of  
21 700 extra hours, but it's not mandated, it's  
22 not required. And as we heard from Richie  
23 Wells, if we don't mandate it and require it  
24 and we don't provide funding, it will not

1           happen.

2                       We all have an interest in better  
3           police and better police practices.  Every  
4           one of us wants that.  And I think if we  
5           follow the bill that I introduced -- and we  
6           can even improve upon it, working together --  
7           we'll wind up with exactly what we want.

8           Everyone wants better police.

9                       So I want to thank everyone for  
10          helping me draft the bill.  And I want to  
11          thank you guys for the work that you're doing  
12          keeping us safe, and keep yourselves safe.

13                      Thank you.

14                      CHAIRWOMAN KRUEGER:  Thank you.

15                      And we have been rejoined by Helene  
16          Weinstein, who didn't --

17                      CHAIRWOMAN WEINSTEIN:  Thank you.  So  
18          we have --

19                      CHAIRWOMAN KRUEGER:  -- she had  
20          another big assignment for the Assembly.

21                      CHAIRWOMAN WEINSTEIN:  So we have a  
22          number of Assemblymembers with questions or  
23          comments.  So we go first to Assemblyman  
24          Lavine, then Lawler, then Ra, then Palmesano,

1 in that order.

2 ASSEMBLYMAN LAVINE: Thank you,  
3 Chair Weinstein.

4 And I want to thank each of you, and  
5 please thank your membership for protecting  
6 us all.

7 I have a quick question, a follow-up  
8 question for President Dymond. So we want  
9 more compact firearms for undercover  
10 officers. Do you have a sense of how many of  
11 these firearms are going to be needed, what  
12 kind, and how much would that cost?

13 PRESIDENT DYMOND: Yes, sir, and I  
14 appreciate the question and the interest in  
15 that topic.

16 So we're looking for a subcompact  
17 weapon for approximately 300 members. We're  
18 looking at an estimated cost of around  
19 \$150,000. Which, you know, it is a -- it's a  
20 big number, but if it keeps our undercover  
21 members safe and concealed, I think it's a  
22 very worthy way to spend those funds.

23 ASSEMBLYMAN LAVINE: Do you have a  
24 particular make or model in mind?



1                   PRESIDENT DYMOND: We are taking a  
2                   look at a bunch of different makes and  
3                   models. The biggest concern for me is that  
4                   it's something that is subcompact, easily  
5                   concealed in the waistband or pocket, and the  
6                   most important thing is it doesn't look like  
7                   the same weapon that our uniformed  
8                   State Troopers wear and our suit-and-tie  
9                   investigators wear.

10                  ASSEMBLYMAN LAVINE: Thank you very  
11                  much. Thank you all.

12                  CHAIRWOMAN WEINSTEIN: Senate, I  
13                  believe you have a Senator?

14                  CHAIRWOMAN KRUEGER: Senator John Liu,  
15                  thank you.

16                  SENATOR LIU: Hello?

17                  (Zoom interruption.)

18                  CHAIRWOMAN KRUEGER: Somebody's going  
19                  to have to put their mute on --

20                  SENATOR LIU: I don't know if you can  
21                  hear me, Madam Chair, but -- Madam Chair?

22                  CHAIRWOMAN KRUEGER: Yes.

23                  SENATOR LIU: Oh, okay. Thank you  
24                  very much.

1           I appreciate this panel's input. I do  
2 appreciate the comments about the police  
3 reform that has taken place, not only in  
4 New York but across the country, and attempts  
5 at more police reform. I think the comments  
6 have been constructive. I think Senator  
7 Savino already spoke with many of us rather  
8 eloquently, and I understand that you all  
9 pretty much universally support her bill, so  
10 that's helpful. And I also appreciate the  
11 support mentioned for Senator Bailey.

12           I do want to say something, though.  
13 One of the comments was that, you know, we  
14 need to train our police -- which is  
15 definitely true -- train them and not always  
16 look to punish.

17           I would only add that it's -- that I  
18 don't think there's a universal intent to  
19 punish officers, but asking for  
20 accountability is not synonymous with  
21 punishing. So, you know, I would ask that  
22 you are tremendous leaders in law enforcement  
23 here in New York State, and you have a voice  
24 far beyond as well. So accountability is not

1 the same as punishment.

2 And with that, I really do want to  
3 thank these gentlemen and their members for  
4 the work that they do. The work is vital.  
5 At the same time, in government we need to  
6 fine-tune what responsibilities in government  
7 should be carried out by which agencies.

8 Thank you, Madam Chair.

9 If any of the gentlemen would like to  
10 respond, I'm all ears. But that's all I have  
11 to say, Madam Chair.

12 CHAIRWOMAN KRUEGER: Thank you,  
13 Senator Liu.

14 If any of them would like to respond,  
15 they have -- oh, nope, they lost their one  
16 minute on the clock. They could have had one  
17 minute.

18 SENATOR LIU: My office is always open  
19 to you.

20 CHAIRWOMAN KRUEGER: Okay. Thank you.  
21 Assembly.

22 CHAIRWOMAN WEINSTEIN: Thank you.

23 We go to Assemblyman Lawler, please.

24 ASSEMBLYMAN LAWLER: Thank you, Madam

1 Chairwoman.

2 And thank you to everybody. I'm  
3 actually proud to represent one of our  
4 esteemed panelists here in the State  
5 Assembly.

6 I think one of the things that's  
7 critically important as we move forward with  
8 any potential reforms is obviously that law  
9 enforcement is included in the discussion. I  
10 think what is evidently clear over the last  
11 few years is that law enforcement really  
12 hasn't been part of the discussion on some of  
13 these criminal justice reforms that came down  
14 the pike.

15 One thing I just want to point out to  
16 all of you, which you may or may not be aware  
17 of, is that last year obviously the  
18 Legislature repealed 50-a of the Civil Rights  
19 Law, which impacted obviously the personnel  
20 files for many of your members. One thing  
21 you should be aware of is that under the  
22 rules of the New York State Assembly, Rule 8,  
23 this body exempts itself from being subject  
24 to FOIL.

1           So just so you're aware of kind of the  
2           hypocrisy of some of the bills that get  
3           passed. So when we talk about accountability  
4           and not punishment, that actually does seem  
5           like punishment and not really accountability  
6           when we're not holding ourselves to the same  
7           standards that we hold your members to.

8           With respect to marijuana  
9           legalization, I have a quick question for  
10          you. There's only one state -- of the states  
11          that have in fact legalized marijuana,  
12          there's only one state that has capped the  
13          potency of marijuana. Do any of you have an  
14          opinion on whether or not you think we -- if  
15          we do end up legalizing recreational use of  
16          marijuana, that we should cap the potency of  
17          it?

18          PRESIDENT MUNGEER: Well, I'll just  
19          say that you should -- you know, whatever  
20          laws that this esteemed body passes, we're  
21          tasked to enforce. So if you do decide to  
22          cap it, we'll act accordingly in our  
23          enforcement acts out on the road.

24          ASSEMBLYMAN LAWLER: Okay.

1           With respect to in-service training, I  
2           agree it's critically important. I know  
3           where I live down in Rockland County, we have  
4           great in-service training for all of our  
5           officers who work in our various police  
6           departments within our municipalities.

7           So I absolutely agree with your  
8           comments that, you know, in-service training  
9           is critical, and providing the funding for  
10          that, especially as we make some of these  
11          criminal justice reforms, to make sure that  
12          all of your members have the necessary and  
13          adequate training that they need to do their  
14          jobs, you know, responsibly and so that, you  
15          know, they can enforce the law and uphold  
16          standards.

17          The academy class, I think that's a  
18          critically important point. I know last year  
19          the Rockland County police exam was canceled.  
20          So I certainly agree with your assessment for  
21          the State Police and all of our police  
22          departments that we need to in fact get these  
23          police exams and classes on the books and get  
24          the funding for it, because I think one thing

1 we've seen is a lot of people have retired as  
2 a result of some of these reforms, so we  
3 definitely desperately need to fill some of  
4 these positions. So I appreciate your  
5 comments on that.

6 CHAIRWOMAN KRUEGER: Thank you.

7 The last Assembly -- no, I see two  
8 Assemblymembers more.

9 CHAIRWOMAN WEINSTEIN: Yes. So we go  
10 to Assemblyman Ra and then Assemblyman  
11 Palmesano.

12 ASSEMBLYMAN RA: Thank you, Chairs.

13 Panelists, thank you all. Thank you  
14 to all of your members for their service  
15 during -- you know, the last year has  
16 obviously been, between COVID and a lot of  
17 the unrest and things we saw last year -- you  
18 know, and they kept being out there each and  
19 every day to keep the public safe. So thank  
20 you to each and every one of your members.

21 I was just wondering if -- you know,  
22 in particular maybe for Mr. O'Meara and --  
23 regarding this proposal in the budget that  
24 deals with the Governor's executive order

1           that requires, you know, changes at the local  
2           level with the potential of funding being  
3           withheld and the potential of a monitor being  
4           put in to oversee a local department.

5                       How have -- you know, from the  
6           departments that are members of your  
7           organization, I'm sure there are some that  
8           probably have already put in plans and others  
9           that are going through that process. I'm  
10          just wondering if you have any perspective on  
11          how that is going.

12                       PRESIDENT O'MEARA: Yeah, we've had a  
13          lot of perspective on it from our member  
14          associations. A lot of the police unions  
15          actually were not even represented on a lot  
16          of those panels, so ...

17                       But my take on that is that it's going  
18          to be these numerous, numerous reports from  
19          all over every corner of New York State that  
20          are all going to be different. But last year  
21          we passed a bill that the Attorney General of  
22          New York State is the single person that  
23          looks into police misconduct.

24                       So you have 40 to 50, I believe,



1 police academies in New York State.  
2 Everybody learns something different. We  
3 keep on changing laws. And like we said,  
4 we're not trained up to the laws, we're just  
5 told about the laws. And now we're going to  
6 have these commissions from all over the  
7 state coming up with ideas and plans on how  
8 the profession of policing is going to  
9 change. And, you know, that's okay. I mean,  
10 we have to -- we have to, you know, learn to  
11 adapt and move on. But we don't get  
12 training.

13 You know, they did the compression  
14 bill in New York City and the plan is to show  
15 a video on how police officers who learned to  
16 take people down and, you know, go on their  
17 back or sit on them -- they learn this in the  
18 academy -- we're going to show them a  
19 videotape now to teach them to not do it.

20 So, you know, if that's the case --  
21 you know, I watched a lot of karate movies  
22 when I was a kid. I should be a black belt,  
23 but I'm not.

24 You know, you've got to -- you have to

1 go through training. You have to go through  
2 training. You can't just -- you know, you  
3 can't be handed a piece of paper or shown a  
4 video. You know, this is -- as you all know,  
5 this is serious business. And we all know  
6 that too. You know, we represent police.

7 So we have to treat it seriously, we  
8 have to allocate the funds, and we have to  
9 train our police officers to match what these  
10 commissions are going to come up with.

11 ASSEMBLYMAN RA: Thank you.

12 CHAIRWOMAN WEINSTEIN: Assemblyman  
13 Palmesano.

14 ASSEMBLYMAN PALMESANO: Yes --

15 CHAIRWOMAN WEINSTEIN: Phil, you're  
16 muted?

17 CHAIRWOMAN KRUEGER: Muted.

18 ASSEMBLYMAN PALMESANO: Oh. Sorry  
19 about that.

20 Good evening, gentlemen. I don't have  
21 any questions for you tonight, just a few  
22 comments, if I may.

23 First I just wanted to say -- take  
24 this opportunity to say thank you to you and

1           your members for your selfless dedication,  
2           commitment, service and sacrifice to protect  
3           us and keep us safe.

4           You know, each and every day you and  
5           your members leave your house and say goodbye  
6           to your spouse and/or kids, not knowing  
7           whether you're going to return home safely.  
8           Although unfortunately some of the policies  
9           coming out of Albany the past couple of years  
10          certainly doesn't reflect this appreciation,  
11          I just want you to know, on behalf of myself,  
12          my family, my community and certainly a  
13          number of my colleagues in the Legislature,  
14          how very truly grateful we all are to you for  
15          all that you do, have done, and will continue  
16          to do for all of us.

17          So on that note, I just want to say  
18          thank you, God bless you, and please be safe.

19          Thank you.

20          CHAIRWOMAN WEINSTEIN: Thank you.

21          We go to Assemblyman Chris Burdick.

22          ASSEMBLYMAN BURDICK: Thank you,

23          Madam Chair.

24          And I want to thank you all for your

1 testimony. And I also want to echo the  
2 thanks that have been expressed for your  
3 service to the state and to keeping us safe.

4 There has been a good deal of concern  
5 and discussion regarding the potential  
6 legalization of recreational marijuana. And  
7 this afternoon there was a very enlightening  
8 discussion with Acting Superintendent  
9 Kevin Bruen of the New York State Division of  
10 State Police, and there was a fair deal of  
11 discussion regarding how will we be coping  
12 with driving under the influence of  
13 marijuana.

14 And I think that for some, that's  
15 regarded as something new, something untried.  
16 But one of the things that became clear, that  
17 the comment that was "This is nothing new.  
18 We're already enforcing. It doesn't have to  
19 be legalized in order for us to enforce  
20 this." They're already looking for those who  
21 are driving under the influence, testing for  
22 THC and so forth.

23 And I'm wondering if you could comment  
24 on that. I don't know which panelist would

1           feel best in addressing it, but I'd like to  
2           get your take on it and your feeling about  
3           the preparedness to go forward should  
4           recreational marijuana be legalized.

5                     PRESIDENT MUNGEER: I'll take that,  
6           Tom Mungeer from the Troopers.

7                     I am a drug recognition expert, and --  
8           but that beside, we do that, police officers,  
9           every day they go out there. The charge is  
10          Dwai, drugs. And it's based on a police  
11          officer's observations on how somebody  
12          drives. You know, whether somebody's under  
13          the influence of alcohol or some other  
14          substance, your initial stop is based on the  
15          observation of how somebody operates that  
16          vehicle. And then our investigation then

13 318.7 8                                     SBT 0 jisi dbe lBTj1 0 urastoretia01.71 413.95 Tm ) TJET31

1 recognition experts throughout the state.

2 And I think it also comes back -- and  
3 this segues back to the training, that police  
4 officers should --

5 ASSEMBLYMAN BURDICK: I just have a  
6 couple of seconds left. So you feel fairly  
7 confident that you'll be prepared for this  
8 should this occur?

9 PRESIDENT MUNGEER: Absolutely.

10 ASSEMBLYMAN BURDICK: Thank you so  
11 much. I appreciate it.

12 CHAIRWOMAN WEINSTEIN: Thank you to  
13 the panel for all of the work your members  
14 do. I've worked with many of you over the  
15 years.

16 And I'll go back to the Senate; I  
17 believe we have no more members who want to  
18 speak.

19 (Pause.)

20 CHAIRWOMAN KRUEGER: I was on mute, I  
21 apologize.

22 I just want to let everyone know that  
23 we are very open to working with all of you  
24 on additional changes we can and should be

1 making in New York, and I really appreciated  
2 your honesty about the fact that this has  
3 been tough times for you, and this has been  
4 tough times for a lot of communities as we  
5 evaluate the need to learn to talk to each  
6 other and to get things right.

7           And it sounds like you all think we  
8 need improved training. I come from New York  
9 City, just for the record; they're not doing  
10 anything once you graduate the first time.  
11 Our NYPD training academy, I describe it as a  
12 combination of a trip to Star Wars and  
13 Harvard at the same time. So they're not  
14 letting anybody go back and continue their  
15 training once they've graduated. That's  
16 extremely disturbing. Because I think we  
17 could probably provide the facilities for the  
18 entire state at that campus.

19           So again, thank you very much for your  
20 work and for your being with us tonight.

21           And our next panel, for those who are  
22 keeping track, Panel D: The District  
23 Attorneys Association of the State of  
24 New York, Anthony Jordan, from Washington

1 County; representing the Defenders  
2 Association, Susan Bryant; the Chief  
3 Defenders Association, Laurette Mulry; a  
4 group called Students Demand Action,  
5 Audrey Sample, student leader; and the  
6 New York State Dispute Resolution  
7 Association, Regina Ritcey.

8 I'll start with the District Attorneys  
9 Association, if you're here.

10 WASHINGTON COUNTY DA JORDAN: I am.

11 Chairwomen Weinstein and Krueger,  
12 thank you for letting us speak with you this  
13 evening on behalf of the DAs Association. On  
14 behalf of our president, Sandra Doorley, she  
15 sends her regrets, but she was not able to  
16 get out of a prior commitment.

17 When we've been looking at this year's  
18 Executive Budget, but certainly in following  
19 the discussions in the Legislature, there are  
20 some areas in the criminal justice system  
21 that certainly continue to remain in very  
22 sharp focus. A few of the areas that I think  
23 matter certainly to our organization, but I  
24 suspect to many on this current panel,



1 include pre-arrest and judicial diversion.  
2 These provide great opportunities, both for  
3 the accused -- but my experience is they do a  
4 great amount of good toward reducing  
5 recidivism.

6 Certainly as we look at the  
7 legislation to add greater access to mental  
8 health and Veterans Court, that is a great  
9 and important initiative.

10 I think what we find, though, as we  
11 look at these, the implementation of these  
12 initiatives, there's a significant resource  
13 gap in the state. And I think as we look at  
14 bringing about these programs, I would ask  
15 that you consider those issues so that the  
16 accused can have access to these diversion  
17 programs and then DA's offices can certainly  
18 make them available.

19 Certainly discovery and the changes  
20 that came about as part of the 2019-2020  
21 budget brought about a change to the criminal  
22 justice system unlike any, I suspect, in the  
23 last generation. Our offices spent months  
24 working together, collaboratively, to -- I

1 won't use the full three minutes.

2 CHAIRWOMAN KRUEGER: Yeah, I'm not  
3 sure what happened with the clock. It was  
4 our fault, so just --

5 WASHINGTON COUNTY DA JORDAN: No, no.

6 But, you know, we spent a great deal  
7 of time trying to come up with how to comply  
8 with the spirit of the law. And certainly  
9 none of this would have been possible without  
10 that collaborative effort amongst the offices  
11 and the contribution of NYPTI, which is the  
12 New York Prosecutor Training Institute.

13 Their programs, their case management  
14 system, but most importantly the digital  
15 evidence management system that they helped  
16 develop has made our ability to turn over  
17 voluminous, you know, amounts of discovery in  
18 a very rapid period of time possible. So we  
19 would ask that you certainly continue to look  
20 to fund their efforts.

21 But also, much of the burden of  
22 discovery fell squarely on the backs of the  
23 localities on very tight budgets. And there  
24 was not a commensurate amount of support for

1           the localities. And we would just ask, so  
2           that we can all continue to comply with not  
3           just the letter of the law, but truly the  
4           spirit of the law, what is it for and what is  
5           the goal, to look to provide that type of  
6           funding.

7                     I know there's been a lot of talk  
8           about body-worn cameras for the State Police.  
9           And what a significant step forward in  
10          continued transparency and accountability.  
11          But body-worn cameras are great, but they are  
12          very expensive -- not only the expenses that  
13          we heard Acting Commissioner Bruen mention  
14          for State Police to purchase, but the cost to  
15          the localities to review, to store and to  
16          deliver the body-worn cameras. In much of  
17          the state, public defender's offices are also  
18          part of county government, and so there's  
19          going to be duplicative storage of all of  
20          that data.

21                    So we would just ask not only do you  
22          look for funding toward the State Police  
23          side, but also for our localities again in  
24          that area.

1                   And I'll wrap up sort of quickly here.  
2                   A lot of talk about decriminalizing  
3                   marijuana, a lot of focus on driving. But  
4                   there are other public safety and public  
5                   health issues that, as you explore this, we  
6                   would just encourage the continued discussion  
7                   with all of the experts, as I know you will,  
8                   but also include our offices, because we are  
9                   on the front line of trying to move these  
10                  cases through the system.

11                  And then lastly, you know, DAASNY,  
12                  we're here, we're ready, we want to work with  
13                  you to try to bring about these important  
14                  initiatives. And certainly would look to  
15                  help explore the resource gaps that we see  
16                  that exist throughout the state.

17                  So thank you very much.

18                  CHAIRWOMAN KRUEGER: Thank you.

19                  Next is New York State Defenders  
20                  Association.

21                  MS. BRYANT: Hi, good evening, Chairs  
22                  Krueger and Weinstein and the rest of the  
23                  members that have stayed on. I appreciate  
24                  your time and the opportunity to testify.

1           In fact, this is earlier testifying  
2 than ever before, so I greatly appreciate  
3 that.

4           My name is Susan Bryant. I'm the  
5 executive director of the New York State  
6 Defenders Association. And I'm proud to talk  
7 to you today about the work of the Defenders  
8 Association and to ask for your ongoing  
9 support.

10           So NYSDA is a nonprofit organization  
11 that provides a wide range of services to  
12 public defenders around the state who  
13 represent individuals in criminal and family  
14 court proceedings. So we are really the  
15 counterpart to NYPTI, which my previous  
16 panelist spoke about. And we've been funded  
17 by New York State since the early '80s to do  
18 this work as the public defense backup  
19 center.

20           And for five years we've also run a  
21 Veterans Defense Program, which you heard  
22 about yesterday, many of you, from our deputy  
23 director, Roy Diehl.

24           So the key issue I wanted to bring up

1 with you is your support and funding for the  
2 state defenders association's ongoing work,  
3 as well as in the current state fiscal year.  
4 So we are asking the Legislature, both the  
5 Senate and the Assembly, to add an additional  
6 \$1,059,000 to NYSDA's budget in the upcoming  
7 state fiscal year because the Executive in  
8 the proposed budget, as has happened in the  
9 past many years, has proposed half of the  
10 money that we need in order to maintain our  
11 base operations.

12 So we are also asking for -- to make  
13 sure that we receive a reappropriation for  
14 the million-fifty-nine-thousand legislative  
15 add from last year, which has not been put to  
16 contract and we have not been able to seek  
17 reimbursement for. I know we're in the same  
18 situation as many others, and appreciate your  
19 support with regard to that.

20 As you heard from Bill Leahy earlier  
21 today, the director of the Indigent Legal  
22 Services Office, NYSDA's work is critical to  
23 public defense and improving the quality of  
24 representation. In the past year we've taken

1 responsibility to educate and train defenders  
2 on the existing laws as well as many new laws  
3 which we are grateful to the Legislature for  
4 passing, including bail, discovery, speedy  
5 trial reform, Domestic Violence Survivors'  
6 Justice Act, the Driver's License Suspension  
7 Reform Act, Raise the Age. All of those  
8 things we provide training on.

9 We also run a case management system  
10 that's similar to NYPTI's, which is in  
11 91 sites in 53 counties, and we're expanding  
12 that to help with the discovery process.

13 And also, for Family Court, we support  
14 the ILS request for 5 million additional  
15 dollars, because families, particularly Black  
16 and brown families, are disproportionately  
17 involved in our family regulatory system and  
18 they really need quality representation, and  
19 the state really needs to step up in that  
20 regard.

21 We also support the Indigent Parolee  
22 Program appropriation of \$600,000 and a  
23 reappropriation of that funding.

24 Thank you so much for your time, and I

1 look forward to speaking further on these  
2 issues.

3 CHAIRWOMAN KRUEGER: Thank you.

4 Next is Laurette Mulry, Chief  
5 Defenders Association of New York.

6 MS. MULRY: Thank you and good  
7 evening. As you said, my name is Laurette  
8 Mulry. I'm the president of the chief  
9 defenders association of New York, which is  
10 an association of public defenders and chiefs  
11 of Legal Aid Societies and assigned counsel  
12 plans across New York State. Collectively we  
13 oversee programs that provide the mandated  
14 service of indigent criminal and family  
15 defense in over 300,000 cases annually.

16 I would like to thank Senator Krueger  
17 and Assemblymember Weinstein and this  
18 venerable Legislature for the opportunity to  
19 present on the limited topic of the Public  
20 Protection Article VII bill Part J, which  
21 allows for the expansion of electronic court  
22 appearances.

23 On behalf of the public defense  
24 community, I would like to state



1           unequivocally our unified opposition to  
2           virtual appearances at critical stages of  
3           court proceedings, most notably at first  
4           court appearance or the arraignment stage.

5                     When New York paused back in March due  
6           to the COVID crisis, our court system never  
7           faltered and continued operations in a  
8           virtual format. And we understood this and  
9           were grateful for it, because it protected  
10          public health and safety and continues to do  
11          so to this day.

12                    However, once the exigency of this  
13          pandemic subsides, in-person arraignments  
14          must be restored to our hallowed court system  
15          to assure due process, to allow public access  
16          to the courts, and to prevent further racial  
17          and digital divide within our justice system.  
18          Virtual arraignments deprive the accused of  
19          effective assistance of counsel, which of  
20          course is predicated upon building trust with  
21          our clients, which is very difficult to do on  
22          a computer screen.

23                    Furthermore, due process would require  
24          that a person being held before a court to

1 answer charges should actually have the right  
2 to be present in court, right, for a judge to  
3 look them in the eye to be able to assess  
4 their credibility, demeanor and humanity.  
5 Indeed, New York State has already made a  
6 commitment to, and I quote, ensuring that  
7 each criminal defendant is represented by  
8 counsel in person at his or her arraignment.  
9 This is language that comes directly from the  
10 Hurrell-Harring settlement agreement to which  
11 New York State and five counties are parties.

12 This commitment was further extended  
13 to the entire state by virtue of the  
14 Executive Law in 2017. Therefore, in  
15 New York, client and counsel are legally  
16 mandated to appear in person at the  
17 arraignment stage.

18 Virtual arraignments produce harsher  
19 results for the accused. Studies have shown  
20 that bail outcomes of virtual arraignments  
21 were over 50 percent higher than when done in  
22 person. This may be attributable to the  
23 inherent dehumanization of defendants  
24 appearing in a virtual setting.

1           Virtual arraignments further broaden  
2           the justice gap for those who are poor who  
3           lack resources like computers or smartphones  
4           or wifi. This digital divide threatens  
5           access to justice and may disproportionately  
6           affect communities of color, further  
7           perpetuating a racial divide in our court  
8           system as well.

9           Virtual arraignments are less  
10          efficient. The ability to speak to clients  
11          is limited, the processing of paperwork is  
12          hampered, and definitely technology issues  
13          abound. Each case takes much longer, and  
14          arraignment calendars often go well into the  
15          early morning hours in many places.

16          Furthermore, public access to the  
17          court is denied. Family members and friends  
18          who ordinarily could vouch for our  
19          clients and assure a contact, supervision or  
20          place to live in the community are not  
21          present.

22          Virtual arraignments have come at a  
23          huge cost for our clients in terms of their  
24          constitutional rights. The true majesty of

1

our court system, which preserves th4 747 Tm( ) TJE T EMC /P 02P 02P 70.15

1 always struck me as inaccurate, because I  
2 know there are families who lose children  
3 without a peaceful goodbye.

4 Grief connects you with everyone who  
5 has ever lost someone. I know the hollowness  
6 of waking up each morning knowing the person  
7 you love most in this world is dead -- and  
8 yet I cannot imagine how much more  
9 complicated my relationship with grief would  
10 be if my sister's death could have been  
11 prevented by greater access to community  
12 resources or sensible legislation.

13 I urge you to include S1049, the  
14 Community Violence Intervention and  
15 Prevention Act, in the budget. I have a  
16 responsibility to help prevent other young  
17 people from knowing this hollowness, and you,  
18 as a legislature, do too.

19 Despite some of the strongest gun laws  
20 in the country -- which have had a  
21 significant impact -- New York still  
22 struggles with gun violence. In New York, on  
23 average, 370 people die by firearm homicide  
24 and 1,522 people are wounded by gun assault

1 or shooting by police.

2 We need investment in community-led  
3 safety initiatives. If we want to end gun  
4 violence, we need access to resources that  
5 are not dependent on a survivor's level of  
6 comfort with police. Currently, victims who  
7 report to the police receive services at  
8 higher rates. From 2000 to 2009, 14 percent  
9 of victims who reported to the police  
10 received services, while only 4 percent of  
11 victims who did not report received services.

12 Violence intervention programs  
13 successfully reduce violence by implementing  
14 alternative public safety measures that are  
15 locally driven, informed by data, and often  
16 don't require police involvement.

17 The Federal Victims of Crime Act  
18 funding has been underutilized in supporting  
19 gun violence survivors. S1049 allows  
20 New York to address its gun violence epidemic  
21 via trauma and community-informed programs.

22 We must act now to prevent gun  
23 violence. We owe this to survivors; we owe  
24 this to New Yorkers.

1           Thank you, and please let me know if  
2           you have any questions.

3           CHAIRWOMAN KRUEGER: Thank you very  
4           much. I'm sorry for your family's loss.

5           Regina Ritcey, New York State Dispute  
6           Resolution Association.

7           MS. RITCEY: Thank you.

8           Good evening, Madam Chair and  
9           honorable members of the committee. Thank  
10          you for the opportunity to be with you here  
11          this evening.

12          My name is Regina Ritcey. I'm the  
13          executive director of the New York State  
14          Dispute Resolution Association, and I'm here  
15          this evening on behalf of NYSDRA, the New  
16          York State Dispute Resolution Association,  
17          and the statewide network of Community  
18          Dispute Resolution Centers, or CDRCs. CDRCs  
19          help people address and resolve conflict in  
20          their lives, improving lives and  
21          strengthening communities.

22          The CDRCs are actually a network of  
23          20 independent nonprofit organizations which  
24          provide remediation and related dispute

1 resolution services. The 20 independent CDRC  
2 centers serve every one of New York State's  
3 62 counties.

4           Funded in part by OCA, the Office of  
5 Court Administration, independent funding,  
6 contracts and grants, CDRCs match OCA funding  
7 nearly dollar for dollar through grants,  
8 contracts and other fee-based services.

9           The New York State Dispute Resolution  
10 Association is the membership association of  
11 the CDRCs and their mediators. We support  
12 the work that they do. The centers actually  
13 are staffed by a dedicated group of staff  
14 members. The work itself, the mediation  
15 work, is primarily, though, done by pro bono  
16 volunteers, community members who are  
17 professionally trained to provide mediation  
18 and other services. Nearly all of the work  
19 that they do is provided at no charge to the  
20 participants.

21           Conflict in our lives is not new, but  
22 as New Yorkers struggle to adjust to the  
23 disruptions of COVID, conflict has been  
24 exacerbated and housing conflicts, family



1 conflicts, conflicts with neighbors and any  
2 part of our society have really just been  
3 exacerbated. And the need for conflict  
4 resolution has just grown.

5 The CDRCs offer an  
6 effective alternative to the courts and are  
7 actually an important part of the Chief  
8 Judge's Excellence Initiative. The CDRCs  
9 work in concert with the courts to handle  
10 cases that are referred out and also receive  
11 self-referrals and referrals from other  
12 organizations. They handle housing, family  
13 matters, and many other situations where  
14 conflict is disruptive and impacts people's  
15 lives.

16 The CDRCs have been hard-hit by cuts  
17 in 2011, and the funding since that time was  
18 never fully restored. I'm here today to ask  
19 you to support the funding for the centers.  
20 I stand with the civil legal services in  
21 asking to have the 10 percent recent cuts  
22 restored, and also to help prevent any  
23 further cuts.

24 We're also asking for the preservation

1 of the \$10 million in the DCJS Aid to  
2 Localities budget.

3 By funding the effective dispute  
4 resolution services of the CDRCs, you can  
5 have a positive impact on the lives of  
6 New Yorkers. Thank you.

7 CHAIRWOMAN KRUEGER: Thank you.

8 Do I see any hands up? I do. I see  
9 Jeremy Cooney from the Senate's hand up.

10 Hello, Jeremy.

11 SENATOR COONEY: Hello, Madam Chair.  
12 It's good to see you. It's getting darker  
13 outside, but we're all still here, and I'm  
14 glad we are.

15 I want to direct my question to  
16 Ms. Sample from Students Demand Action.  
17 Audrey, it's great to see you here, and thank  
18 you for hanging around with us tonight. I'm  
19 so grateful for the work that you do in  
20 Greater Rochester specifically around  
21 communities of color. I've seen you out  
22 doing that work over the past several years.

23 You know as much as I do that  
24 Rochester still struggles with gun violence.

1           We had a quadruple shooting last week in my  
2           district on Lyell Avenue. This continues to  
3           be an issue for us, and we're very concerned  
4           about it. But I want to direct my question  
5           really about the healing that you noted  
6           before, specifically for survivors of gun  
7           violence.

8                         Where are we missing the mark as a  
9           state? Where could we do better, whether  
10          it's a program that is happening in other  
11          parts of the country that Students Demand  
12          knows -- but where could we be offering more  
13          resources to survivors of gun violence who  
14          are dealing with the trauma that we're seeing  
15          right in our hometown of Rochester?

16                        Thank you.

17                        MS. SAMPLE: Thank you,  
18          Senator Cooney.

19                        Well, as I noted before, I feel really  
20          passionately that in New York as a whole, but  
21          in our cities specifically, where so many  
22          Black and brown people do not feel safe with  
23          the police -- and, you know, white people as  
24          well -- that we need resources that don't

1           rely on them contacting law enforcement if  
2           that's something that they don't feel  
3           comfortable with.

4                       And so one of the most popular  
5           violence intervention program models is  
6           called Street Outreach, which provides both  
7           immediate crisis response services and  
8           long-term stabilization support to  
9           individuals and communities affected by gun  
10          violence. A 2017 evaluation of a Street  
11          Outreach model known as Cure Violence  
12          implemented in the South Bronx found that its  
13          street outreach efforts were associated with  
14          a 37 percent decline in gun violence injuries  
15          and a 63 percent decline in shooting  
16          victimizations, while a similar neighborhood  
17          without such a program did not experience the  
18          same rates of reduction.

19                      So I think that, you know, we really  
20          need innovative solutions and we need  
21          creativity and people with, you know,  
22          compassionate hearts and, again, creative  
23          minds to come to the table on this. And I'm  
24          happy that you have continued -- that you

1           fought with us from the beginning and then  
2           continue to fight with us, and I really hope  
3           that the Legislature can include this in the  
4           budget.

5                     SENATOR COONEY:    I thank you.  And  
6           with compassion and creativity, we can  
7           accomplish a lot.  And I know that Students  
8           Demand Action will do just that.

9                     So thank you for all the work that  
10          you're doing.

11                    Thank you.  I yield my time.

12                    CHAIRWOMAN KRUEGER:  Thank you.  
13           Assembly.

14                    CHAIRWOMAN WEINSTEIN:  We go to  
15          Assemblyman Ra.

16                    ASSEMBLYMAN RA:  Thank you, Chair.

17                    Good to see you, Mr. Jordan.  I just  
18          had a quick question for you.

19                    So I had asked DCJS earlier today  
20          about the \$40 million that was appropriated  
21          last year for the Discovery Compensation  
22          Fund, and he did tell me that I guess some --  
23          there was some amount, I guess 1.75 million  
24          that had been spent on this DEMS system.  I

1 was just wondering if you are aware of any  
2 funding going out the door, you know,  
3 directly to local DA's departments.

4 WASHINGTON COUNTY DA JORDAN: So late  
5 yesterday afternoon we actually received an  
6 email from DCJS. And what they've done is  
7 they've structured the award by -- I think  
8 they used some formula of arraignments and  
9 maybe county size. But it's not exclusively  
10 for discovery, and it's not exclusively for  
11 DA offices.

12 So what they've done is it looks like  
13 they've bundled together pretrial services  
14 so -- to address release under supervision or  
15 release with conditions, to fund that, also  
16 providing funding for the sheriff's  
17 department, local PDs, and then the  
18 DA offices.

19 My understanding, although it's very  
20 early, but in terms of trying to understand  
21 how it's going to get rolled out, it looks  
22 like in counties with county executives the  
23 notice may have gone to the county executive.  
24 So that is -- you know, it could create

1 "where is the money going to go, how is it  
2 going to be used."

3 So certainly some is better than none,  
4 as we often tell our kids. But I think it's  
5 a -- if it's a one-shot, it might -- it helps  
6 address some of the costs that our county has  
7 incurred. But certainly the amount that we  
8 were seeing that we expect if we're able to  
9 complete all of the grant application process  
10 would be about what probably is necessary  
11 each year going forward.

12 So hopefully it's not a one-time deal.  
13 And it wasn't just for discovery. And it  
14 goes far beyond just DA offices. So it will  
15 be interesting to see how all that works out.

16 ASSEMBLYMAN RA: Thank you.

17 WASHINGTON COUNTY DA JORDAN: Good to  
18 see you as well, Assemblyman.

19 ASSEMBLYMAN RA: Thank you.

20 CHAIRWOMAN WEINSTEIN: Thank you.

21 Back to the Senate.

22 CHAIRWOMAN KRUEGER: Actually, we  
23 thought we had a Senator, but we lost them.  
24 So I'll give it right back to the Assembly.

1                   CHAIRWOMAN WEINSTEIN: Okay. Then we  
2 have Assemblyman Lawler, I believe is the  
3 last member we have.

4                   ASSEMBLYMAN LAWLER: Thank you,  
5 Chairwoman.

6                   Tony, it's good to see you. I'm sure  
7 you --

8                   WASHINGTON COUNTY DA JORDAN: --  
9 {inaudible} on this side.

10                  ASSEMBLYMAN LAWLER: That's right.  
11 I'm sure you miss these budget hearings.

12                  So I just wanted to ask quickly -- I  
13 know in your comments you had mentioned  
14 really about the cost for some of these  
15 criminal justice reforms that came down on  
16 the district attorneys', you know, offices.

17                  So I just want to give you another  
18 moment to expand on some of the unfunded  
19 mandates as part of these criminal justice  
20 reforms and the need for funding in the state  
21 budget. So that's one.

22                  And then, second, I just wanted to get  
23 your comment with respect to the legalization  
24 of recreational use of marijuana. Of all the



1 states that have so far legalized marijuana,  
2 there's only one state that has capped the  
3 potency of marijuana, and that's the State of  
4 Vermont.

5 So I was just curious if you had a  
6 comment with respect to whether or not, as  
7 New York State looks to pass the legalization  
8 of marijuana, whether or not you think there  
9 should be a cap on the potency of marijuana.

10 WASHINGTON COUNTY DA JORDAN: Sure. I  
11 think with funding, I think there -- it's a  
12 noble effort and it was an important change  
13 in terms of really rearranging completely how  
14 discovery happens in criminal cases.

15 But to make sure it actually works and  
16 works well, I think the state should look at  
17 funding for all affected agencies. So a lot  
18 of the funding has focused on the defense  
19 side, which is important, but I guess they  
20 should also focus on our ability to turn that  
21 discovery around and get it reviewed. And  
22 it's only -- body-worn cameras is going to  
23 have a significant impact on those costs.  
24 With --

1 ASSEMBLYMAN LAWLER: Especially on the  
2 IT side of it.

3 WASHINGTON COUNTY DA JORDAN: Well, in  
4 body time. You have to review the  
5 body-camera footage because you have to make  
6 sure there's nothing on there that shouldn't  
7 be made public. You know, you could have  
8 kids in compromising situations, Social  
9 Security numbers. You know, it's not even  
10 related to the case.

11 So there -- and you can't substitute  
12 reviewing body camera footage with a  
13 computer. And as I speak, if I were the  
14 Public Defenders Association, they're saying  
15 the same thing, right, because their people  
16 have to review this footage now. So it goes  
17 both ways.

18 With marijuana, I would really  
19 encourage -- we had a great presentation from  
20 folks from Colorado, and they talked about  
21 many of their experiences. And I think those  
22 can be very instructive. Potency certainly  
23 would be a concern as -- just as a person.  
24 But it's also the deliverables, how is it

1 going to be deliverable. Is it edibles, is  
2 it candies? It's things that we've often  
3 struggled with in the cigarette world, right,  
4 with not making it attractive to kids.

5 So I think those would be some of the  
6 same public health and safety concerns we  
7 would have.

8 ASSEMBLYMAN LAWLER: And on those  
9 edibles, the potency is about 98 percent. So  
10 that's -- that's why I asked specifically  
11 about capping the potency.

12 Thank you.

13 CHAIRWOMAN KRUEGER: Anyone else?

14 CHAIRWOMAN WEINSTEIN: No, we have no  
15 one else, Senator.

16 CHAIRWOMAN KRUEGER: All right.

17 I just have to say that Assemblymember  
18 Lawler and I have to sit down separately and  
19 discuss my marijuana bill, because I think  
20 he's getting a bunch of the issues slightly  
21 off. But we're not going to do that at  
22 tonight's panel. But let's make a date to  
23 talk about this. Thank you.

24 ASSEMBLYMAN LAWLER: Happily, Liz.

1 Happily.

2 CHAIRWOMAN KRUEGER: Thank you.

3 All right, the next panel, the Osborne  
4 Association, Elizabeth Gaynes; the Vera  
5 Institute of Justice, Shayna Kessler; the  
6 Katal Center for Equity, Health and Justice,  
7 Yonah Zeitz; and Moms Demand Action for Gun  
8 Sense in America, Barry Graubart.

9 And everybody here? Let's start with  
10 the Osborne Association.

11 MS. GAYNES: Hi. Thanks for having  
12 me. I'm Liz Gaynes, from Osborne. We are a  
13 90-year-old nonprofit that works in  
14 30 prisons, Rikers Island jails, New York  
15 City, Newburgh and Buffalo.

16 And I want to be in that conversation  
17 about cannabis that you guys are going to  
18 have. And hold on to your idea and don't  
19 compromise. It's not just about where the  
20 money goes, it's also making sure that it's  
21 not Big Pharma and Big Cannabis that takes  
22 over but that our communities get the  
23 licenses to produce, process and sell.

24 But that's really not why I came.

1           It's been a brutal year. The  
2 nonprofit sector has really stepped up. And  
3 I know that it's easy to thank police for  
4 their service and sacrifice, but I'd like to  
5 also thank the front-line people in public  
6 safety who have been doing this work. It's  
7 mostly -- it's not been done with state  
8 money. The CEO raised money for a private  
9 stimulus package for people coming home. We  
10 raise thousands of dollars from private  
11 donations to give people coming home  
12 smartphones and reentry kits so that they  
13 could come home in this time of COVID.

14           We've even had to raise private money  
15 to do our work with policing. We're working  
16 with the Buffalo Police Department and NYPD  
17 on training specifically around policies and  
18 protocols of what happens when you arrest a  
19 parent in front of a child.

20           With all the talk about police  
21 training, it's a great idea, but the issue is  
22 police-community relations. And the training  
23 needs to include, as Buffalo and NYPD have  
24 included us, members of the community to be

1 part of that training.

2 Obviously the Rochester Police need  
3 some work responding to children and people  
4 with mental illness. But it's broader than  
5 that. And so your investment in police  
6 training, including the community, will  
7 contribute to raise equity as well.

8 Look, the DOCCS population has gone  
9 down dramatically, but one group that's  
10 persistently and sadly stuck because of the  
11 persistent and perpetual punishment of people  
12 sentenced for violent offenses decades ago.  
13 Parole reforms are on your agenda, and I hope  
14 we get them this year. Elder parole, fair  
15 and timely parole bills are critical to  
16 offering opportunity for long-term  
17 incarcerated individuals. They have a  
18 recidivism rate that's about zero. They  
19 often committed their crimes as adolescents.  
20 Yet they're excluded from the early release  
21 DOCCS executive order. They're excluded from  
22 work release. They're excluded from  
23 educational release, although they are highly  
24 represented in the prison college group. And

1 the community would benefit from them. I  
2 hire as many as I can.

3 I hope you'll pass legislation for  
4 parole reforms, prison reforms, sentencing  
5 reforms and other campaigns. We're part of  
6 parole justice, justice roadmap, and HALT.

7 We also have some budget requests we  
8 don't have time for -- Senator Kennedy has  
9 funded our work in Buffalo, and our elder  
10 parole reentry program for Adirondack and the  
11 8,000 older adults who are incarcerated.

12 I'm out of time, but not out of  
13 energy.

14 CHAIRWOMAN KRUEGER: All right. Thank  
15 you.

16 Our next testifier, Vera Institute of  
17 Justice.

18 MS. KESSLER: Thank you very much.  
19 Good evening. Thank you so much for your  
20 time.

21 My name is Shayna Kessler. I'm a  
22 senior planner with the Vera Institute of  
23 Justice. I'm pleased to testify today in  
24 support of an increased commitment to the

1 Liberty Defense Project, or LDP, which funds  
2 the New York Immigrant Family Unity Project,  
3 or NYIFUP.

4 Governor Cuomo included \$10 million in  
5 his fiscal year '22 Executive Budget for LDP,  
6 and today I'm asking you to support this  
7 critically important work with an additional  
8 \$5.3 million investment, for a total of \$15.3  
9 million in FY '22. This would support a  
10 \$6.5 million allocation to NYIFUP.

11 The Vera Institute leads national  
12 efforts to advance universal representation  
13 so that everyone at risk of deportation can  
14 have access to a lawyer. In spite of  
15 extremely high stakes, immigrants are not  
16 guaranteed a lawyer if they can't afford to  
17 hire one. With New York's investment,  
18 though, NYIFUP became the country's first and  
19 only statewide universal representation  
20 system for detained immigrants, providing a  
21 beacon of hope for those torn from their  
22 homes by immigration enforcement.

23 This investment in NYIFUP brings  
24 critical benefits to our state, especially



1 during the pandemic. One in three New York  
2 children has an immigrant parent, and more  
3 than one-quarter of the state's workforce is  
4 foreign-born. During the pandemic,  
5 immigrants are responsible for work that  
6 sustains our economy and safeguards public  
7 health.

8 With immigrants three and a half times  
9 more likely to obtain release from detention  
10 with a lawyer, and 10 times more likely to  
11 prove their right to remain in the United  
12 States, NYIFUP has reunited families,  
13 promoted economic stability, and maintained  
14 confidence that New York stands with  
15 immigrants in this difficult time.

16 While the Biden administration is  
17 making promising changes reversing the brutal  
18 anti-immigrant harm of the past four years,  
19 paving the way forward will only be possible  
20 with legal advocacy. NYIFUP presents a  
21 powerful example to Washington of an  
22 immigration policy that centers human  
23 dignity.

24 It is also critical to addressing

1 systemic racial injustice by interrupting the  
2 arrest to deportation pipeline that leads to  
3 racial profiling and the criminalization of  
4 communities of color. More than 40  
5 jurisdictions have followed New York's lead  
6 by funding deportation defense. They  
7 recognize that investing in representation  
8 for immigrants safeguards health and  
9 stability during this challenging time.

10 There's also overwhelming public  
11 support for the work. A poll found that  
12 93 percent of New Yorkers support  
13 government-funded lawyers for people in  
14 immigration court. The \$10 million for LDP  
15 and in the Governor's budget is a welcome  
16 start, but to keep the program strong we urge  
17 the Senate and Assembly to fund LDP at  
18 \$15.3 million, which would enable a  
19 \$6.5 million allocation to NYIFUP.

20 Thank you very much for your time.

21 CHAIRWOMAN KRUEGER: Thank you very  
22 much.

23 Katal Center for Equity, Health and  
24 Justice.

1           MR. ZEITZ: Yes, good evening. And  
2 thank you, Senator Krueger and  
3 Assemblymember Weinstein for inviting our  
4 testimony this evening.

5           My name is Yonah Zeitz, and I'm the  
6 policy coordinator at the Katal Center for  
7 Equity, Health and Justice. And we're a  
8 community-based organization that focuses on  
9 ending mass incarceration and building  
10 community power.

11           And for tonight's testimony I will be  
12 talking about the parole system and in  
13 particular the problem of reincarcerating  
14 people for technical violations of parole.

15           This issue is unjust, and it  
16 exacerbates racial inequity within our  
17 justice system, and it provides no  
18 commensurate gains to public safety. And in  
19 particular for this hearing, it comes at an  
20 immense fiscal cost.

21           And so the Katal Center, along with  
22 the Less Is More Campaign, has been working  
23 to pass the Less Is More Act, which would  
24 address this issue and should be included in

1           this year's budget.

2                     And so what exactly is a technical  
3 parole violation? It's anything from missing  
4 an appointment with a parole officer to  
5 failing an alcohol or drug test. And so  
6 these are not new criminal offenses, but yet  
7 New York reincarcerates more people for these  
8 type of noncriminal technical violations of  
9 parole than any other state in the nation.  
10 This is a failure in terms of our public  
11 policy.

12                     And so right now there are currently  
13 5,000 New Yorkers that are incarcerated in  
14 jails and prisons for these type of  
15 noncriminal technical parole violations. And  
16 so that means about 4,000 people in state  
17 prisons are incarcerated for these  
18 violations, and that makes up about  
19 12 percent of the entire prison population  
20 and about one-third of all new admissions to  
21 state prisons. And so this is one of the  
22 main driving forces of mass incarceration in  
23 the state.

24                     And the racial disparities are quite

1 stark. Black and Latino people are  
2 incarcerated at much higher rates for these  
3 technical violations than white people.

4 And along with, you know, the human  
5 and racial aspect of this bill, it also comes  
6 at an immense fiscal cost. New York is -- we  
7 spend over \$600 million annually at the jail  
8 and prison level, incarcerating people for  
9 noncriminal technical violations of parole.

10 And so at the state level the  
11 nonpartisan Council on State Governments  
12 issued a report stating that New York State  
13 spends about \$369 million annually  
14 incarcerating people at the state prison  
15 level for technical violations of parole.

16 And then at the county level, the  
17 counties are responsible for the full costs  
18 of incarcerating people in the jails as  
19 they're awaiting alleged violations. And so  
20 in New York City alone, that was about  
21 \$300 million a year.

22 And so the Less Is More Act would fix  
23 this issue. And so the bill is currently in  
24 the New York Legislature and it's being

1 sponsored by Senator Brian Benjamin, and it  
2 actually just moved out of the Senate Crimes,  
3 Crime Victims and Corrections Committee. So  
4 thank you, Senator Salazar, for helping make  
5 that happen. And so we're hoping that this  
6 bill can be included in the budget.

7 And also it's worth noting that we  
8 have broad support for this bill. So there  
9 are over 230 groups, faith leaders and other  
10 organizations, that support this bill, along  
11 with some broad support from public safety  
12 officials. So we have over seven DAs signed  
13 on in support of this bill. We have county  
14 sheriffs. We also have some former probation  
15 and parole officers that support this bill.

16 And so let's get -- we want to get  
17 this done in this budget year. And so thank  
18 you for the time, and I'd be happy to answer  
19 any questions.

20 CHAIRWOMAN KRUEGER: Thank you.

21 And our last speaker for this panel,  
22 Barry Graubart from Moms Demand Action for  
23 Gun Sense in America.

24 MR. GRAUBART: Hi, my name is Barry

1 Graubart, and I'm the deputy chapter leader  
2 for the New York Chapter for Moms Demand  
3 Action for Gun Sense in America.

4 In that role, I work with numerous  
5 survivors of gun violence from across the  
6 state on a daily basis. So thank you,  
7 Chairs Krueger and Weinstein, for inviting us  
8 to testify on this critical issue.

9 And I'm urging you today to include  
10 Bill S1049, Senator Myrie's Community  
11 Violence Intervention Program Act, in the  
12 budget. We know that in New York, gun  
13 homicides disproportionately impact Black and  
14 brown families living in neighborhoods shaped  
15 by long-term underinvestment. Adequate  
16 funding is critical to providing these key  
17 services to victims of gun violence.

18 A few things that we do know about  
19 access to these victims services. So on  
20 average, fewer than one in ten victims of  
21 serious violent crimes receive assistance  
22 from a victims services agency. Victims of  
23 serious intimate partner violence are three  
24 times more likely than other victims of

1 serious crimes to receive those services.  
2 And in our Black and brown communities, we  
3 know that crime victims are less likely to  
4 report their crimes to the police, and as a  
5 result we know that a large percentage of  
6 victims of serious crimes in these  
7 neighborhoods are just not receiving the  
8 services they require.

9           Instead, a patchwork of small  
10 community-based organizations try to fill the  
11 gaps where they can, but clearly it's not  
12 enough.

13           What's the cost to this failure?  
14 Well, you know, the data shows us that using  
15 VOCA funds to resource community-based  
16 services to gun violence victims allows us to  
17 interrupt these cycles of violence. And  
18 funding community-based organizations is the  
19 best way to increase access to these  
20 services.

21           Community-based organizations are  
22 small, they're often founded by a gun  
23 violence survivor, and they're staffed by  
24 volunteers. These organizations are amazing,



1 but they operate on shoestring budgets and  
2 they really could increase their service  
3 provision and their impact through increased  
4 funding.

5 So in conclusion, I just want to say  
6 VOCA victim assistance grants, they're a  
7 plentiful and largely untapped funding source  
8 for gun violence victims services like  
9 hospital-based violence intervention, street  
10 outreach programs, trauma recovery centers,  
11 and more. States, cities and community-based  
12 organizations have a unique opportunity to  
13 drive VOCA victim assistance funding to these  
14 and other gun violence victims services.  
15 New York has struggled to utilize these funds  
16 due to unnecessary constraints which make it  
17 harder for these small organizations to  
18 participate.

19 The CVIP bill, S1049, is really an  
20 important step toward removing those  
21 constraints and delivering on the vision for  
22 gun violence prevention that I think we all  
23 strive for.

24 In my last 20 seconds, I want to just



1           actually our last panel for this evening,  
2           Journey's End Refugee Services, Sarah  
3           Bertozzi; UnLocal, Terry Lawson; and  
4           Center for Judicial Accountability,  
5           Elena Sassower.

6                     Starting with Sarah. Are you here,  
7           Sarah? Does any staff see whether she  
8           checked in?

9                     THE MODERATOR: Oh, she's here.

10                    MS. BERTOZZI: Can you hear me?

11                    CHAIRWOMAN KRUEGER: Oh, there you  
12           are. Now we can hear you. Hi there.

13                    MS. BERTOZZI: Sorry about that. Hi,  
14           thank you. Good evening.

15                    My name is Sarah Bertozzi, and I'm the  
16           managing attorney of the Immigration Legal  
17           Services Program at Journey's End Refugee  
18           Services. And my testimony also supports  
19           funding for immigration legal services in the  
20           New York State budget.

21                    Our legal department maintains offices  
22           in Buffalo, Rochester and Binghamton, where  
23           we provide immigration legal services, access  
24           to which is one of the most critical needs of

1 immigrants in New York State.

2 Immigrants of all statuses require  
3 legal assistance on their immigration  
4 matters, including refugees, asylees, asylum  
5 seekers, DACA recipients, green card holders,  
6 and even naturalized U.S. citizens. And  
7 their ability to access and navigate our  
8 federal immigration system is also dependent  
9 on immigration attorneys that represent them  
10 before USCIS, which is U.S. Citizenship and  
11 Immigration Services, and immigration court.

12 Specifically, immigration attorneys  
13 fight civil detention and deportation for  
14 asylum seekers seeking safety in the U.S.  
15 They apply for green cards and naturalization  
16 to secure and advance immigration status.  
17 They obtain work authorization to seek lawful  
18 and meaningful employment. And they petition  
19 to reunite families that have been separated  
20 by violence, conflict and war.

21 These needs are great and are critical  
22 to a safe, healthy, productive and meaningful  
23 adjustment to life in the U.S. However, due  
24 to a lack of resources, particularly in

1 underserved areas like upstate New York,  
2 there are not enough immigration legal  
3 service providers to adequately meet these  
4 needs.

5           And immigration cases are primarily  
6 successful with the representation of an  
7 attorney who can assist in the navigation of  
8 this turbulent field of law. Seventy-eight  
9 percent of immigrants with lawyers win their  
10 cases, versus 15 percent who do not have  
11 legal help. And consequences of denied cases  
12 are severe. They can include prolonged  
13 family separation, even deportation to  
14 dangerous countries.

15           In response to these significant  
16 challenges, New York State has made a  
17 substantial investment in immigration legal  
18 services, in 2012 with the creation of the  
19 Office for New Americans, or ONA, and in 2018  
20 with the launch of the Liberty Defense  
21 Project, or LDP. ONA and LDP provide funding  
22 for nonprofit immigration legal service  
23 providers to meet these needs, and our legal  
24 department could not operate without this

1 funding.

2           However, each of our offices maintains  
3 a waitlist. In Western New York we're the  
4 only refugee resettlement agency that has  
5 attorneys working on these cases. And in the  
6 Southern Tier and Finger Lakes regions,  
7 access to representation on immigration legal  
8 cases is a rare opportunity.

9           So consequently we are advocating for  
10 the maintenance and expansion of ONA and LDP  
11 funding in the New York State budget. We are  
12 specifically asking for increased funding for  
13 LDP to 15.3 million from its current  
14 10 million, and an increased budget for ONA  
15 to 9.1 million from its current 6.4 million,  
16 maintenance of which will allow us to keep  
17 our commitment to clients with open cases.  
18 And expanded funding allow us to help even  
19 more immigrant New Yorkers.

20           Thank you for your time.

21           CHAIRWOMAN KRUEGER: Thank you.

22           Our next testifier, Terry Lawson, from  
23 UnLocal.

24           MS. LAWSON: Thank you for this

1 opportunity to testify at today's hearing.  
2 My name is Terry Lawson, and I am the new  
3 executive director of UnLocal, a  
4 community-centered nonprofit that provides  
5 direct community education, outreach, and  
6 legal representation to New York City's  
7 undocumented immigrant communities.

8 I would like to begin by discussing  
9 the work of UnLocal in the context of a  
10 recent case of ours that has been in the  
11 news.

12 Javier Castillo Maradiaga is a  
13 27-year-old Bronx resident who came here with  
14 his family when he was 7 years old. He was  
15 referred to UnLocal because we are one of  
16 founding partners of the Rapid Response Legal  
17 Collaborative, which is funded in part by  
18 ONA. In December 2019, Javier was unlawfully  
19 transferred from NYC Department of  
20 Corrections custody to ICE, in violation of  
21 New York City's Detainer Laws.

22 Though Javier's criminal charges were  
23 subsequently dismissed and sealed, he remains  
24 in ICE detention and has been nearly deported

1 three times since President Biden's  
2 inauguration.

3 To stop Javier's deportation, in the  
4 span of just two weeks UnLocal has filed two  
5 requests for a stay of removal, one with ICE  
6 and one with the Board of Immigration  
7 Appeals, a motion to reopen his removal  
8 proceedings, a habeas petition, a motion for  
9 a preliminary injunction, and a memorandum of  
10 law with the Southern District of New York.  
11 We have held four press conferences, an  
12 online community gathering, and have gathered  
13 over 6000 signatures in a public petition.  
14 We have also engaged with legislators and  
15 elected officials at every level.

16 Before coming to UnLocal, Javier's  
17 family spent over \$20,000 in private legal  
18 fees to fight their immigration cases.  
19 Javier's mother has told me about how her  
20 family was taken advantage of by unscrupulous  
21 providers and how hard it was for them to  
22 find free, high-quality legal representation.

23 Their case came to our attention via  
24 the Rapid Response Legal Collaborative just



1 days before Javier was transferred to  
2 Louisiana.

3 If the events of the past two weeks  
4 have taught us anything, they have taught us  
5 that while the Trump administration is no  
6 longer in power, this work is far from over.  
7 Deportation flights are still taking off, and  
8 UnLocal and immigration advocates across this  
9 city are working tirelessly alongside  
10 immigrant New Yorkers to ensure that they  
11 remain here with their families.

12 Javier is DACA-eligible, his siblings  
13 have DACA, his parents have TPS, and we  
14 continue to work harder than we have before  
15 to provide immigrant New Yorkers like Javier  
16 and his family with free, high-quality legal  
17 services.

18 We appreciate the Legislature and  
19 OCA's support of civil legal services. And  
20 as Javier's case demonstrates, the need for  
21 this funding continues, particularly as  
22 immigrant communities battle the effects of  
23 COVID.

24 Thank you so much for this hearing and

1 for outlasting your federal counterparts by  
2 several hours today. So thank you so much.

3 CHAIRWOMAN KRUEGER: Thank you very  
4 much.

5 And our last testifier for this  
6 evening, Elena Sassoier -- Sassoher, excuse  
7 me. Sassower. I know how to say it, I'm  
8 just a little tired, excuse me.

9 Unmute yourself, we can't hear you.  
10 There you go.

11 MS. SASSOWER: My name is Elena  
12 Sassower, and I am director and cofounder of  
13 the nonpartisan, nonprofit citizens  
14 organization Center for Judicial  
15 Accountability. Our website is  
16 [www.judgewatch.org](http://www.judgewatch.org). And from its prominent  
17 center panel entitled "Comparing New York's  
18 Legislature Before and After its Fraudulent  
19 Pay Raise," you can find the evidentiary  
20 substantiation of this testimony.

21 As you know -- because I've stated it  
22 repeatedly -- our foremost public protection  
23 is the New York State Constitution, which by  
24 Article VII lays out the manner in which the

1 State Budget is to be fashioned and enacted.  
2 This year, as in past years, the budget is  
3 off the constitutional rails, and I long ago  
4 and repeatedly furnished you with proof and,  
5 in the absence of your response, sued you in  
6 two citizen taxpayer actions, the second  
7 encompassing the first, laying out the  
8 unconstitutionality of the Judiciary Budget,  
9 the Legislative Budget and the whole of the  
10 Executive Budget, and of the force-of-law  
11 commission scheme by which you gave pay  
12 raises to judges and, as a consequence, to  
13 district attorneys via commission reports  
14 that are false instruments.

15 You have had no legitimate defense to  
16 either lawsuit, and so your attorney, the  
17 New York State Attorney General, himself a  
18 defendant, corrupted the judicial process  
19 with litigation fraud and was rewarded with  
20 fraudulent decisions. This also enabled you  
21 to utilize the same force-of-law scheme to  
22 procure your committee-based pay raises for  
23 yourselves, and for the Attorney General, the  
24 Comptroller, the Governor and the Lieutenant

1 Governor, also by a report that is a false  
2 instrument.

3 The foregoing is the subject of  
4 62 fully documented grand jury public  
5 corruption complaints against you that I've  
6 filed with New York's 62 district attorneys,  
7 including Washington County DA Jordan, who  
8 has just testified at this hearing.

9 In the event you are not knowledgeable  
10 of those 62 complaints, the most important  
11 being the complaint filed with Albany County  
12 DA Soares, all 62 are accessible from CJA's  
13 webpage for my testimony and this Public  
14 Protection Budget Hearing. That is where you  
15 will also find other relevant complaints such  
16 as against the first witness at this hearing,  
17 Chief Administrative Judge Marks, and  
18 New York's Court of Appeals judges who  
19 certified and approved the Judiciary's  
20 slush-fund budget filed with the Commission  
21 on Judicial Conduct, whose administrator,  
22 Robert Tembeckjian, was your second witness.

23 I am available to meet with the  
24 Legislature to discuss the foregoing,

1 including the specifics relating to the  
2 fiscal year 2022 budget, and to testify under  
3 oath. Thank you.

4 CHAIRWOMAN KRUEGER: Thank you.

5 Any questions? I don't see hands  
6 raised.

7 CHAIRWOMAN WEINSTEIN: No questions  
8 from the Assembly.

9 CHAIRWOMAN KRUEGER: Okay, and no  
10 questions from the Senate.

11 So I want to officially call this  
12 hearing over.

13 I want to thank you all for  
14 participating throughout the day and evening.  
15 We learned a lot, and we absorbed a lot. And  
16 again, anyone who's still listening and who  
17 thought, Why am I not there testifying, the  
18 answer is you can still submit testimony and  
19 it will go up online and we can review it in  
20 the context of all of our work on the budget.

21 So I want to thank my colleague Helene  
22 Weinstein and all my colleagues for making it  
23 through with us today.

24 And tomorrow morning at 9:30, we start

1 the Local Government Budget Hearing, am I  
2 right, Helene?

3 CHAIRWOMAN WEINSTEIN: Yes, correct,  
4 9:30 we start.

5 CHAIRWOMAN KRUEGER: There you go. So  
6 tune in tomorrow: Same people, different  
7 topics.

8 Thank you so much. Get home safe.

9 (Whereupon, at 8:11 p.m., the budget  
10 hearing concluded.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24